



EAST AFRICAN COMMUNITY
EAST AFRICAN LEGISLATIVE ASSEMBLY

**RESOLUTION EXPRESSING EALA'S UNEQUIVOCAL SUPPORT FOR AN
EXTENSION OF THE TRANSITION PERIOD UNDER ARTICLE 66.1 OF
TRIPS AGREEMENT FOR LEAST DEVELOPED COUNTRIES (LDCs)**

AWARE THAT under *Article 118 (e)* of the East African Treaty Partner States agreed to undertake measures for the promotion of quality health in the Community;

FURTHER AWARE THAT, four(4) of the five EAC Partner States are still LDCs with a critical need to utilize the policy space under the World Trade Organisation TRIPS Agreement for the welfare of their citizens;

STRESSING THAT, *Article 7* of the TRIPS Agreement provides that the protection and enforcement of IPRs should contribute to the promotion of technological innovation in a manner conducive to social and economic welfare, and to a balance of rights and obligations;

RECOGNIZING THAT, under *Article 8* of the TRIPS Agreement Members may, in formulating or amending their laws and regulations, adopt measures necessary to protect public health and nutrition, and to promote the public interest in sectors of vital importance to their socio-economic and technological development;

REAFFIRMING THAT *Article 66.1* of the Agreement on Trade-Related Aspects of Intellectual Property Rights (the "TRIPS Agreement") accorded Least Developed Country Members a ten-year exemption from most obligations under the TRIPS Agreement in view of the special needs and requirements of the Least Developed Country Members, their economic, financial and administrative constraints and their need for flexibility to create a viable technological base.

CONCERNED THAT this exemption was due to expire on 31 December 2005, the TRIPS Council, through its decision IP/C/40 on 29 November 2005 extended the transition period for Least Developed Country Members under Article 66.1 of the TRIPS Agreement until 1 July 2013, or until such a date on which they cease to be a Least Developed Country Member, whichever date is earlier.

FURTHER CONCERNED THAT the LDC Members of the WTO continue to face serious economic, financial and administrative constraints and need maximum flexibility to create a sound and viable technological base.

FURTHER CONCERNED THAT unless extended, the expiry of the transition period granted to Least Developed Country Members under TRIPS agreement will narrow their policy space to access various technologies, education resources and other tools necessary for development.

RECALLING THAT *Article 66.1* expressly permitted LDC Members to dismantle any intellectual property legislation that they had enacted prior to the adoption of the TRIPS Agreement or even during the original LDC transition period;

FURTHER RECALLING THAT in February 2013 the EAC Secretariat adopted the EAC Regional Intellectual Property Policy on the Utilization of Public Health-Related WTO-TRIPS Flexibilities and the Approximation of National Intellectual Property Legislation;

FURTHER RECALLING THAT Policy Statement No. 1 of the above policy calls upon all EAC Partner States that are LDCs is to take advantage of the 2016 transition period and provide in their national patent laws for an extension of this period as may be agreed upon by the Council for TRIPS.

NOTING THAT many organizations have expressed support for the LDC extension request, including UNDP and UNAIDS, the Global Commission on HIV and the Law, a consortium of 300 civil society organizations, developing country Members, among others.

NOW THEREFORE THIS ASSEMBLY DO RESOLVE THAT:-

- 1) The duly motivated request submitted by Haiti, on behalf of LDCs that are WTO Member States, for an extension of the transitional period (that ends on 1 July 2013) demanding that Least Developed Countries shall not be required to apply the provisions of the agreement other than articles 3, 4 and 5 until they cease to be LDC members as this request is compliant with both the history and language of Article 66.1 of the TRIPS Agreement be granted.
- 2) The Least Developed Country Members in the relevant EAC Partner States must retain policy space if they are to develop their technological base so that intellectual property protections might be helpful rather than harmful to their development processes;
- 3) The downward demands being made by the United States and European Union are unjustified and contrary to the language and spirit of *Article 66.1*, and we insist that the Least Developed Country request be granted unconditionally.

MOVED BY: HON. DORA K. BYAMUKAMA