

PREPARATIONS FOR THE 1999 MINISTERIAL CONFERENCE

Proposals Regarding the Agreement on Trade-Related Intellectual Property Rights

Communication from Colombia

The following communication, dated 7 September 1999, has been received from the Permanent Mission of Colombia.

Background

1. Under Article 64 of the TRIPS Agreement, subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994, concerning so-called non-violation complaints, are not applicable for a period of five years from the date of entry into force of the WTO Agreement. The reason for this is to allow a discussion within the Council for TRIPS on the scope and modalities for complaints of this kind within the context of the TRIPS Agreement. However, the Council has not yet devoted enough time to the discussion of this matter.

2. The TRIPS Agreement is an instrument for protecting technological advances and innovation with clear benefits for those Members that are industrially and technologically developed and have the capacity to advance in innovation. Furthermore, among the objectives mentioned in Article 7 of the Agreement it is stressed that "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". So far, no specific mechanisms have been implemented to attain this objective.

Proposals

1. It is proposed that the moratorium in TRIPS Article 64 be extended to allow the Council more time to take up a substantive discussion of non-violation complaints within the context of the above-mentioned Agreement.

2. Article 7 of the Agreement should be developed in order to make it operational and ensure the transfer of technology on fair and mutually advantageous terms.