

WTO TRIPS Council June 2021: UK Statements

NOTIFICATIONS UNDER PROVISIONS OF THE AGREEMENT

Thank you Chair,

As we have outlined at previous Council sessions, the UK has been undergoing a process of notifying all its applicable IP related domestic legislation, in accordance with Article 63.2 of the TRIPS Agreement. This is an essential exercise given our continued support for the multilateral rules-based trading system, the WTO's role in it, as well as the importance the United Kingdom attaches to TRIPS transparency arrangements and the benefits a transparent IP regime brings for the growth of IP intensive industries.

Since the last formal Council session in March, members will have received reports of the last of these historic notifications, and we thank members for their patience in receiving our notifications over a number of months. We are pleased to announce we have now finalised updating our historic notifications and we encourage other WTO members to notify the TRIPS Council of their domestic IP changes. The UK stands ready to assist any member who may require assistance in doing so.

We would like to thank the Secretariat again for their patience and support throughout this process, and for the efficiency of the eTRIPS system.

Thank you Chair.

INTELLECTUAL PROPERTY AND INNOVATION: SUMMARY ON THE 2020 THEME – MAKING MSMEs COMPETITIVE THROUGH IP AND INNOVATION

Thank you Chair,

The United Kingdom would like to thank the US and the co-sponsors for preparing this paper, summarising the last year's activity from the Friends of IP and Innovation Group, focused on IP and MSMEs. We are pleased to co-sponsor and to have the opportunity in past sessions and today to add our voice to those delegations that see this work and MSMEs as important in the overall innovation ecosystem.

The UK considers that creative and innovative enterprises are vital to a strong economy, and MSMEs often represent the most innovative and agile businesses.

It is undeniably vital that these businesses' success is complimented by an enabling and effective intellectual property framework.

Over the last year we have listened with interest to other members' experiences in this area, from how critical MSMEs are, to how IP can support and foster their success, and how governments can create an environment to

aid this.

A key aspect for the UK was the theme of building awareness among MSMEs of the benefits of IP to their business, notably the example that some MSMEs may not have sought protections due to a lack of awareness or assumptions that processes to achieve this would be expensive or difficult. Therefore, hearing examples of members' experiences relating to outreach and education efforts from members, and the encouragement of the development of IP strategies as a core business function were especially helpful.

We also noted with interest the increasing focus on green tech innovation, how both businesses and governments see this as a vital area of significance, and how MSMEs can benefit from a range of initiatives and tools that members have been putting in place encourage innovation in the green space.

We fully agree that MSMEs are critical to bringing innovative solutions to real-world challenges, as well as overall economic health, and would like to reiterate that while the significance of MSMEs to economies is increasingly recognised, it is now more important than ever that we look at ways to bolster the capacity and health of MSMEs. The UK would again like to thank the US and other members of the Group for presenting this paper, as well as for their contributions throughout this fascinating theme.

Thank you, Chair.

INTELLECTUAL PROPERTY AND INNOVATION: IP FOR INVESTMENT / FINANCE/ FUNDING

Chair, the UK delegation expresses gratitude to the co-sponsors of this agenda item and the accompanying document. We are grateful to see this Council discussing a topic of high importance to businesses, especially MSMEs, and to the innovation and creativity ecosystem as a whole.

We would like to thank the co-sponsors for entrusting us with giving an introduction, which we will do together with sharing experiences of the United Kingdom. We hope it serves as a catalyst for interesting conversation around the area of finance and intellectual property. The paper seeks to explore, in the context of the importance of financing to businesses, the different ways IP can be leveraged for growth and sustainability. It covers different forms of financing available, as well as potential support governments can provide.

Given this somewhat uncharted territory, the exploration in this paper poses a number of questions, and we look to others' experiences to perhaps provide some of the answers. These questions include: what are the experiences of businesses using IP to raise finance internationally; measures taken by members that have supported businesses in their commercialization of IP; and how awareness of the benefits of IP could be raised with finance providers.

Intellectual property assets have long been recognized as just that – assets. But valuing IP is not an easy task. For example, how much is your brand name worth after years of marketing. Valuing IP assets can be especially difficult if they are innovative – and therefore novel and untested.

Further, intellectual property rights may change in value over time. For example, a patent may become less valuable as other solutions to the problem may be found, or a trade mark gain value as it becomes more widely recognised.

These shifting values mean businesses will benefit from regularly taking stock of their IP assets – an ‘IP Audit’ – that will allow them to:

1. Identify the products and services that are crucial to business.
2. Identify IP assets and the legal rights associated with them.
3. Identify what market advantage these rights give.

...and thereby value IP assets as they would physical assets.

The world’s five most valuable companies are worth £3.5 trillion together but their balance sheets report just £172 billion of tangible assets – so 95% of their value is in the form of intangible assets, including intellectual property, data and other knowledge assets.

Too often, IP-rich firms find it difficult to collateralize their investments to unlock future growth funding, especially when compared with those firms holding more conventional assets.

So, we have to ask if there is a mismatch between the potential value created by companies with strong intellectual property portfolios and the investment opportunities afforded by investors.

In the UK, evidence suggests that there are fewer than 5000 IP valuation reports commissioned per annum, and the market is somewhat underdeveloped versus what might be considered optimal.

It should be possible to bring more clarity to the subject of IP asset valuation so that investors and innovators can benefit from asset value as collateral for innovation.

The focus of government support should be to make it easier to maximize the return on IP through better knowledge, information flows, access to finance, insurance, and trading mechanisms, such as the UK government’s IP for Investment toolkit and IP Audit programs, for businesses seeking equity finance to grow – supporting identifying IP assets and their relationship to growth and providing guidance on ‘investor readiness’. This could incentivise the creation of new ideas, increase the share that is commercialised, and thus contribute to innovative activity, which will benefit the wider economy through further innovation where firms are able to collateralise their intellectual property.

Whilst there are no easy solutions within this complex set of interactions between businesses and financial institutions, it’s valuable to identify where potential obstacles lie and improving our understanding and use of IP assets as a fundamental driver of economic growth.

For the U.K., the growth in investment in intangibles, such as those protected by intellectual property, has been substantial. Between 1997 and

2016, investments in intangibles increased by 87% from £71.91 billion British pounds to £134.29 billion.

In 2016, almost half of the assets U.K. firms invested in were intangible knowledge assets, rather than tangible assets.

There is no single market-wide or agreed methodology for valuing IP. Without a consensus approach, it is difficult to independently verify the value attributed to a piece of IP. Unsurprisingly, one survey [a 2010 survey] showed that only 3% to 4% of SMEs had ever tried to assess the value of their IP.

However, some innovative, independent companies in the U.K. are bridging the gap between financial and intellectual assets by developing their own expertise in valuation and its realisation – such as the UK-based commercialisation company, IP Group, which has focused on linking university-originated research with investors through carefully considered IP asset valuation and development.

IP represents a global growth area, and those who are prepared to invest can prosper from this – we hope that others can join the conversation on how to further enable this for the future.

Again, we thank other members for their support, and look forward to hearing the views of other cosponsors on their national experiences in this area.

SECOND STATEMENT: INTELLECTUAL PROPERTY AND INNOVATION: IP FOR INVESTMENT / FINANCE/ FUNDING

Thank you Chair for giving me the floor again. I would like to thank all of the delegations who have given a statement under this item today.

We have heard a lot of focus on MSMEs and this links well to the last year's theme focusing on this category of businesses. The growing amount of knowledge in the space of IP and growing understanding of the functioning of the IP ecosystem is especially valuable together with the eTRIPS platform and its searchable database.

We also agree with the delegations who noted the benefits of collaboration with the WIPO, particularly its relatively new IP and Innovations Ecosystems Sector.

A number of additional questions have also been raised, for example elements around securitisation, the differences between IP evaluation and valuation, as well as the role of enforcement.

I would also like to thank delegations for sharing their specific national experience, projects and programmes in this area important and relevant to innovative and creative businesses.

We think this was a useful discussion and look forward to further conversations in the future.

Thank you Chair.

PROPOSAL FOR A WAIVER FROM CERTAIN PROVISIONS OF THE TRIPS AGREEMENT FOR THE PREVENTION, CONTAINMENT AND TREATMENT OF COVID-19 (DELIVERED BY AMBASSADOR SIMON MANLEY)

Thank you, Chair.

First of all, I'd like to thank the proponents for submitting their revised proposal to this Council. We recognise the passion around these issues and we note the changes made and have considered whether these address legitimate concerns raised by the UK and others in previous TRIPS Council sessions.

The UK will continue to engage constructively on this issue. We don't think, however, that the amended proposal does address the questions asked by the UK and indeed has raised further concerns on how a waiver would genuinely help us scale up and speed up the production and distribution of Covid-19 supplies for the prevention, treatment, and containment of Covid-19.

Overall, we fear that the revised text doesn't bring members' positions closer together. The text strongly suggests that the international IP system is a barrier when we still have not seen evidence of it being the case. All of us recognise the rapid action required to accomplish our shared aim of tackling Covid-19; therefore, we consider it important to concentrate efforts on pragmatic solutions and steps to resolve issues surrounding vaccine equity.

Fundamentally, we remain to be convinced how an IP waiver, if agreed, would increase the supply of Covid-19 goods. To date, we have still not seen evidence demonstrating intellectual property as a limiting factor in either the production or the supply of Covid-19 goods. For example, some WTO members already have the policy flexibility to operate without being subject to the obligations under the provisions of the TRIPS Agreement under discussion. At the same time, some of these members have reported having manufacturing capacity. We are curious to understand why immediate production has not happened in these countries on that basis.

Voluntary licensing and technology transfer partnerships are making real, positive impact on vaccine delivery, as exemplified by the Oxford AstraZeneca vaccine with its numerous partnerships around the world. These partnerships have enabled the delivery of more than half a billion doses to 168 countries around the world, including 96% of total COVAX supply. We know that we need to do more. We continue to encourage and work to facilitate more partnerships like this one and once again call on members with eligible manufacturing capacity to come forward to scale up supply. Whilst we cannot overstate the role industry has played, further work is required. British Ministers are continuing to engage with the sector and are pushing them to deliver concrete proposals to further scale up supply of Covid-19 goods.

This pandemic is not over and sadly may not be the last one, so we must also consider the long-term consequences of potential short-term action on IP. A key priority for the UK is ensuring the multilateral IP system remains fit-

for-purpose to respond both to current and future crises by continuing to encourage innovation and its dissemination. Without that, new vaccines for new pandemics will simply not be developed. The UK believes TRIPS flexibilities are legitimate tools to access Covid-19 goods and should be used where needed. We welcome news of members who have begun exploring this avenue, including in yesterday's event. I'd like to thank the EU for its communication. We welcome the introduction of such additional options for consideration and we'd welcome the opportunity to offer fuller comments in due course.

The recent communiques from the G20 and G7 affirm the shared commitment to finding effective solutions within the multilateral rules-based system. Ensuring targeted and sensible principles focused on addressing trade and health concerns has been a key priority for us during our Chairmanship of the G7. As the G7 trade ministers' made clear in their communique of 28 May, we will continue to support work at the WTO in identifying solutions to expand global vaccine production and distribution. Working with industry, the COVAX Manufacturing Taskforce and the ACT-A Manufacturing Working Group, we will scale up capacity and engage on forward supply planning. Further to this, we will support open, diversified, secure, and resilient supply chains in the manufacture of Covid-19 critical goods, vaccines and their components, as well as welcoming the termination of many trade restrictive measures. Looking towards the future, we will also work in partnership with our G7 partners to formulate pragmatic, effective, and holistic solutions to support trade in health ahead of and at MC12. We believe these actions can best guide measures to increase supply access to Covid-19 technologies. We look forward to reporting back to members on the conclusions of this weekend's G7 Summit in Cornwall. Glad to say that the WTO and WHO DGs will be participating in these discussions.

The UK has worked with the WHO on developing C-TAP, including with key partners such as the United Nations Development Programme, the Medicines Patent Pool and Cambridge Enterprise, to share our approach to model licenses for sharing of IP. A useful next step for C-TAP would be the WHO working even more closely with governments to demonstrate how to incentivise industry players to participate in the scheme. We encourage further engagement by members in the C-TAP space, as well as drawing on expertise from WIPO and WHO via the trilateral cooperation framework.

We need to focus on pragmatic practical solutions that will actively address blockers to vaccine equity – solutions that will speed up of tariffs on ingredients and production tools, production bottlenecks and supply chain issues such as specialised raw material shortages. Solutions that ensure that available doses are effectively distributed and administered, whilst continuing to scale up existing and new vaccine production. Solutions which deliver real world change, quickly, effectively, equitably.

Thank you, Chair.

EXTENSION OF THE TRANSITION PERIOD UNDER ARTICLE 66.1 OF THE TRIPS AGREEMENT

FOR LDC MEMBERS

Thank you, Chair.

The United Kingdom would like to thank delegations for their contributions to advance progress in reaching consensus on an extension of the LDC transition period to implement the TRIPS Agreement.

However, these discussions have not brought the members' positions closer together. As many have noted, the deadline to reach an agreement on an extension is rapidly approaching and reaching consensus must be a priority for all Members. We therefore call upon Members to further intensify discussions so that the TRIPS Council can agree an extension as soon as possible.

The UK stands ready to work with all Members over the coming days and weeks in order to achieve this goal.

Thank you, Chair.