WTO decision on pharma: an opportunity

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ON November 6, the WTO-TRIPS Council took a decision which has far-reaching developmental consequences for the least-developed countries (LDCs), but more particularly for Bangladesh. On that day, the TRIPS Council decided to grant the LDCs an exemption from obligations to implement or apply or enforce patents as well as data protection for pharmaceutical products until January 1, 2033.

The waiver allows LDCs a transition period of 17 years to comply with and implement the provisions of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement of the WTO.

It may be noted, the original stance of the LDCs was for granting of patent waiver for as long as a country remained an LDC. In the end, LDCs had to agree to a compromise version in this regard. Nonetheless, extension of the transition period of 14 years granted earlier, which is set to expire on December 31 this year, to a second and longer transition phase of 17 years was a remarkable achievement by any measure.

The waivers are to be reviewed annually by the WTO General Council and the current decision does not preclude the possibility of further extension in future favouring the LDCs.

Whilst the original request of the LDCs to link the waiver to their graduation to non-LDC status had received broad-based support from the developing countries, the EU, UN organisations and civil societies worldwide, negotiations with the USA proved to be very tough indeed.

Ensuring the support of the US and getting the US negotiators to shift from their initial offer of extension for 10 years, inclusion of mailbox waiver and ensuring that no strings are attached to the decision -- all these must be seen as commendable achievements by the LDC negotiators and their supporters in the WTO.

Bangladesh, as coordinator of the LDCs in the WTO, has played a critically important role in giving leadership in these negotiations. Bangladesh Ambassador in Geneva Shameem Ahsan and Ambassador Christopher Onyanga Aparr of Uganda did an excellent job in securing US agreement in the high-level meeting held on October 29, which cleared the way for the aforementioned decision.

Indeed, the Bangladesh Mission in Geneva must be congratulated for the way it has conducted these complex discussions and for steering the negotiations towards successful conclusion.

The TRIPS decision itself is important on several counts: firstly, the waiver will allow LDCs to continue to enjoy exemptions from patent obligations for pharmaceutical products stipulated in the TRIPS agreement, which will enable the LDCs to produce these items at significantly reduced costs during the transition period.

Secondly, LDCs have also secured waivers from obligations to make available the mechanism for filling patent applications for pharmaceutical products (mailbox) and from granting exclusive marketing rights to such applications for the granted period. As may be recalled, the provision of mailbox waiver was not granted to the LDCs during the first transition phase.

Thirdly, the decision does not include any conditions attached to it, which would have put restrictions on the ability of the LDCs to take full advantage of the waiver or could limit the benefits that could potentially accrue from this decision.

The mailbox and exclusive marketing rights waivers will, however, need to be endorsed by the General Council or by the Ministerial Conference which meets in Nairobi for MC-10 on December 15-18 this year.

With this decision, a modicum of life has been infused into the ongoing WTO negotiations, which had not seen any mentionable progress in the context of the ambitious Doha Development Round Agenda of the WTO. Developing countries, particularly the LDCs, were frustrated that the developmental dimensions of a Round that was hyped as a Development Round has gradually receded to the background since the time the Round was launched with such high hopes in 2001.

With the TRIPS decision, some elements of the aspiration which had informed the new Round in the first place appears to have clawed back into the negotiating table. It is also encouraging that the US, after protracted negotiations, agreed to shift from its original stance and veered towards a compromise that met the aspirations of the LDCs.

STAR/FILE

Bangladeshi pharmaceutical companies have already started making entry into developed countries and there is a need to support these companies to strengthen their presence in these and other new markets.

Indeed, the TRIPS decision is a pointer as to how LDC concerns and interests could be accommodated through concrete steps. This decision is also in line with the spirit of the sustainable development goals (SDGs), more specifically Goal 3 of the SDGs, where specific targets have been set with a view to ensuring healthy lives and promote well-being for all at all ages. Thus, this decision is also a reflection of coherence in view of the commitments made by the developed countries in the context of the SDGs.

The TRIPS and Pharmaceuticals decision of the WTO has important implications for the economies of all the 34 LDC members of the WTO. The decision provides the LDCs with an opportunity to provide low-cost medicine to their own people, and also creates significant export opportunities for pharmaceutical enterprises in the LDCs.

Waiver from patenting/licensing costs gives a significant advantage to the LDC producers who will be able to keep their costs low. Consequently, their competitive strength, both in the domestic as well as the export markets, will be enhanced.

Producers, consumers and LDC economies in general should reap substantial benefit as a result of this decision. The decision has particular significance for Bangladesh. Indeed, among all the LDCs, Bangladesh is one of only a few which are in a position to reap the benefits of the decision.

Bangladesh has formidable supply-side capacity in pharmaceuticals and is capable of catering not only to the sizeable domestic demand but also has demonstrated capacity in exporting to overseas markets. The industry has to its credit a credible track record both in terms of quantitative measure and quality standards. The more than 160 small, medium and large enterprises in the pharmaceutical industry cater to about 95 percent of Bangladesh's domestic demand.

The export target for pharmaceutical items has been set at $80.0 million in FY2015-16.

Pharmaceutical items, including active pharmaceutical ingredients (APIs) and a wide range of pharmaceutical products covering all major therapeutic classes and dosage forms, as also specialist products, are exported to more than 90 countries, albeit in small amounts.

On the other hand, the global pharmaceutical export market is estimated to be worth more than $520 billion (in 2014). Bangladesh's current share in this huge market is, thus, quite insignificant.

Preferential market access that allows Bangladesh duty-, quota-free export of pharmaceutical products to almost all developed and some of the developing country markets should now provide additional competitive advantage to Bangladesh, in the wake of the TRIPS decision.

The capacity for import-substitution and export-orientation demonstrated by the country's pharmaceutical industry is something to be proud of. However, regrettably, there is no denying that Bangladesh was not able to fully realise the potential benefits originating from the TRIPS waiver during the first transition period of 14 years (2001-2015).

The joint statement signed by a number of leading NGOs, in view of the TRIPS decision, urged the LDCs "to actively use the created policy space that this renewed transition period provides, and accordingly to take immediate steps to amend their respective national laws to exclude pharmaceutical products from patent protection and test data protection with explicit provisions that this would be until January 1, 2033, or the expiry of such later transition period that may be granted by the WTO Council for TRIPS".

In view of the enormous possibilities, there is a need to design a dedicated strategy which will enable Bangladesh to take advantage of the TRIPS waiver. Investment in the sector will need to be incentivised, specialised industrial areas and parks with needed infrastructure will need to be built and export-oriented FDI will need to be encouraged.

The 200-acre API park in Munshiganj needs to be fully operationalised on an urgent basis.

Bangladeshi companies have already started to make entry into developed country markets and there is a need to support these companies to strengthen their presence in these and other new markets.

Once Bangladesh graduates out of the LDC status, it will no longer be able to enjoy the preferential treatment accorded under this decision. It is likely that the UN Committee for Development Policy (CDP, which decides matters of inclusion into, and graduation from, the LDC group) will consider Bangladesh for graduation in its triennial review to be undertaken in 2018.

Following two successive reviews (of three years each), it is highly likely that Bangladesh will finally graduate from LDC group by the year 2024. The window of opportunity for Bangladesh is, thus, only for about 10 years. In this backdrop, Bangladesh should design, with the urgency that the matter deserves, an appropriate strategy to take fullest advantage of the WTO-TRIPS decision.

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Potato to web: Internet outsourcing in Pakistan's mountainous north

AFP, *Gulmit, Pakistan*

WHEN a landslide created a huge, turquoise lake that cut them off from the world, the farmers of Gulmit were left destitute and unable to sell their potatoes. Their solution: to drag their Himalayan valley in Pakistan's far north into the Internet age.

In the village, which is nestled between two peaks approaching 8,000 metres (26,000 feet) high, farmers scrabble to grow the produce as their ancestors did. But just a few metres away Karim Aslam is hammering at a keyboard on a computer connected to a giant satellite dish.

He downloads audio files sent from the US: English-language recordings of patients' diagnoses sent from Tennessee, which he transcribes before sending back, acting as a long-distance secretary. It was a step change for Gulmit, an idyllic village of some 3,000 people with stone walls and potato crops that stretch out over the majestic fields of northern Pakistan, near the China border.

"Potatoes are seasonal. You cannot live with that the whole year, but I can live (on) my transcription job," explains Karim, who took English classes at school and found the work over the Internet by contacting a Karachi-based company that deals with US clients.

He soon found his stride with the recordings. At first, he managed around 30 minutes per day, but now, he says "I am doing at least 120 to 150 minutes per day".

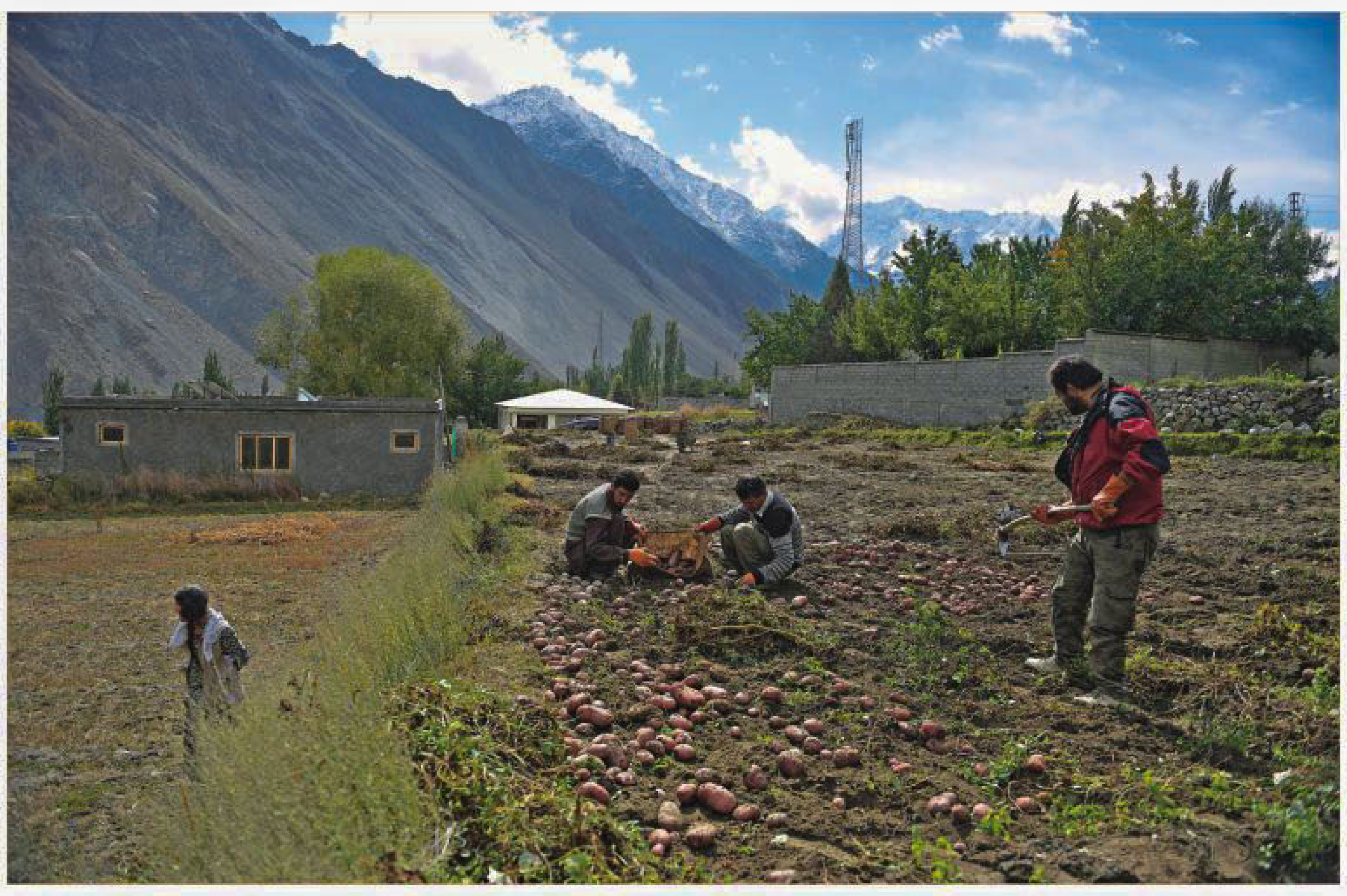
The transcripts earn him around $400 per month, a small fortune compared to the meagre wages farmers make.

Since the late 1990s, South Asia, with its large numbers of youths educated in English, has been home to an outsourcing boom, particularly in customer call centres.

But until a spectacular landslide in 2010, this village perched 2,400 metres above sea level had remained untouched by modernity.

Hemmed in by the landslide, water from the river Hunza began to rise creating the artificial Attabad lake, cutting off Gulmit from the rest of the villages of the north.

The only way to cross was by hiring barges -- but the cost of doing so saw the potato industry collapse. Forced by economic necessity, Gulmit was finally connected to the web, driven by ambitious village youths eager to tap in to the digital economy and the endless possibilities of outsourced work.



AFP/FILE

Farmers harvest potatoes in a field next to an e-facility centre in the village of Gulmit, Hunza valley, in northern Pakistan.

The only problem was of infrastructure: deprived of the phone network, the village did not have Internet access.

So European donors, via a local NGO called Kado, funded the creation of digital training centre with 700 trainees in the surrounding area of Gojal, as well as the purchase of laptops and the installation of a satellite connection. In mid 2012, Gulmit went online.

"It was amazing for us," recalls Anila Hakim, an 18-year-old villager training in IT.

"At that time, we were not aware of what the current issues are all about and what is going on inside our country, or outside, so being connected to the whole world was glorious."

But the internet gold rush may be ebbing -- financing for the Kado project has ended. Karim's internet connection is the only one still working in the village. But his satellite subscription costs a small fortune: between $150 - 200 a month. "It's far too much," he says.

If connectivity was less of an issue, "I would have trained lots of guys, and we would have done lots of work from the US or Canada," he says, wearing a fake leather jacket to protect him from the autumnal cold as he leans over his keyboard.

There is hope Gulmit will stay in the internet age -- the NGO Kado is looking for new foreign financing to provide new satellite web services, pending the arrival of landline connections, explains Abdul Waheed, the project's director.

The potato farmers, for their part, are smiling again. This year, thanks to Chinese investment, construction on a tunnel bypassing the lake has been completed, re-connecting Gulmit to the rest of the country.

"We were producing potatoes, then we were earning money through the internet. This was only an alternate option... now we will go back to potatoes," said Waheed.

But he hasn't lost all hope of utilising the world wide web. He adds: "We will market the potatoes through internet."

Chinese president warns of rival free trade pact 'fragmentation'

AFP, *Manila*

CHINA'S President Xi Jinping Wednesday urged Asian economies to sign up to its free trade agreement, warning that rival pacts risked causing "fragmentation" among regional nations.

Both China and the United States are pushing their own free trade visions for the economically vibrant and populous region.

Last month 12 Pacific nations finally reached an agreement on the US-led Trans-Pacific Partnership pact, a major diplomatic coup for Washington.

China is pointedly excluded from the TPP, part of Washington's attempt to ramp up influence in the region with its "pivot" to Asia. Beijing has instead pushed its own agreement, the Free Trade Area of the Asia-Pacific (FTAAP)

"With various new regional free trade arrangements cropping up there have been worries about the potential of fragmentation. We therefore need to accelerate the realisation of FTAAP and take regional economic integration forward," Xi said.

The Chinese leader gave his remarks to business leaders in Manila, hours before he is due to meet US President Barack Obama on stage at the regional Asia-Pacific Economic Cooperation (APEC) summit in the Philippine capital.

As he spoke, leaders from the 12 TPP nations met and extolled the pact's economic benefits, in an effort to smooth domestic hurdles to ratification.

In a joint statement released after their meeting in Manila, the leaders heralded the "high-standard" pact as offering a "new and compelling model for trade in one of the world's fastest growing and most dynamic regions".

The proposed Trans-Pacific Partnership (TPP) would be the world's largest, grouping 800 million people in countries as diverse as the United States, Japan and Brunei Darussalam.

South Korea and Indonesia have also both signalled interest in joining.

But it is far from a forgone conclusion that the pact agreed in October will be implemented.

In the United States, Obama must overcome opposition from within his own Democratic party to get the deal through Congress before he steps down in early 2017.

The 11 other nations also have to get sign off from their legislatures.

The Apec gathering is supposed to focus on trade but has already been sidetracked by the contest for the South China Sea, where Beijing's programme of island building on disputed shoals and reefs has rattled neighbours.

On Tuesday Obama offered the Philippines a warship as part of a $250-million aid package to Southeast Asian allies worried about Chinese efforts to control strategic sea.

Beijing insists Apec is a trade forum and not a place to discuss regional security issues.

Xi made no mention of the South China Sea in his speech but he did call on Pacific nations to "resolve our differences through dialogue and consultation".