

WTO Compliance Review: Proposed Amendments to the Intellectual Property Code of the Philippines

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SUBJECT(S): INTERNATIONAL ECONOMIC LAW, INTELLECTUAL PROPERTY LAW

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There are recent developments in the World Trade Organization's (WTO) policy on access to medicines, namely the DOHA Declaration, the August decision of the WTO general council, adopting the implementation of paragraph 6 of the Doha declaration on the TRIPS agreement, and the December amendment regarding TRIPS agreement. These developments, particularly in patent law, have led to a more liberal attitude of WTO members, towards access to medicine.

It is also examined whether the five major amendments proposed by the Roxas Amendment are consistent with the Philippines' obligations under the WTO, particularly under the TRIPS agreement. In determining compliance, reference is made to the practices and experiences of the WTO members, the principles behind the WTO guidelines on pharmaceutical issues, and the Philippine policies on access to medicine. Developments in United States jurisprudence and arguments under the TRIPS agreement are also discussed.

It has long been recognized that the TRIPS agreement provide flexibility and its interpretation and implementation should be supportive of the member's right to protect public health and promote access to medicines. It is concluded that Philippine legislators must be aware of these basic principles and flexibilities, and utilize them to create a regime that sufficiently addresses the needs of the Filipino people.