

Increasing South-South co-operation through the India-Africa partnership and the Global South

Regional Consultation and Planning Workshop
Use of TRIPS Flexibilities to Access Affordable ARVs in Asia

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Outline

- Common challenges and objectives
- Increasing IP policy coherence
- Facilitating local production and technology transfer
- Supporting south-south co-operation on R&D into diseases of common interest



Why do we need to explore south-south co-operation?

- Global Economic crisis and Replacement of Round 11 with transitional funding has increased the need for TRIPS flexibilities
- More patients on 1st generation treatment will soon need more expensive 2nd and 3rd generation ARVs
- 2010 UNDP study shows that more medicine patents being granted with opening of mailbox post-2005 despite section 3(d)
- Patents on new medicines will affect new generation ARVs and medicines to treat NCDs
- Countries with manufacturing capacity e.g. India, China, Thailand should fully incorporate TRIPS flexibilities to facilitate local production
- Countries with insufficient manufacturing capacity need to fully preserve and further include TRIPS flexibilities



Enabling regulatory environment (1)



- Countries face similar challenges:
 - Have not fully incorporated public health related TRIPS flexibilities
 - Facing TRIPS plus measures through Unilateral pressure, FTAs and IP enforcement agenda
 - Proliferation of anti-counterfeiting legislation
 - Lack of transparent patent transparency, can discourage generic competition



Enabling regulatory environment (2)

- Harmonized Negotiating position at WTO TRIPS Council e.g. for LDC extension
- WIPO Development Agenda implementation
- Discussions at WHO on substandard, spurious, falsely-labeled, falsified and counterfeit medical products
- Share best practice on using flexibilities e.g. competition policy in South Africa, India's Section 3(d) Argentina adopting patentability criteria
- Mitigating harmful impact of TRIPS plus with best practice laws e.g. on implementing data exclusivity



Local production challenges (1)

- local pharmaceutical production regarded as unviable, insufficient of economies of scale e.g. Laing & Kaplan
- Technology Transfer not taking place to LDCs despite Article 66 of TRIPS
- Insufficient human resources in various parts of production chain
- Very few African generic manufacturers have WHO pre-qualification, ineligible to tender for Global Fund grants
- Manufacturers in smaller countries struggle to compete with larger companies (economies of scale)
- Duplicity of efforts around local production, hampering economies of scale
- Sustainable supply of APIs is an issue, and sustainability of production without donor support is another challenge

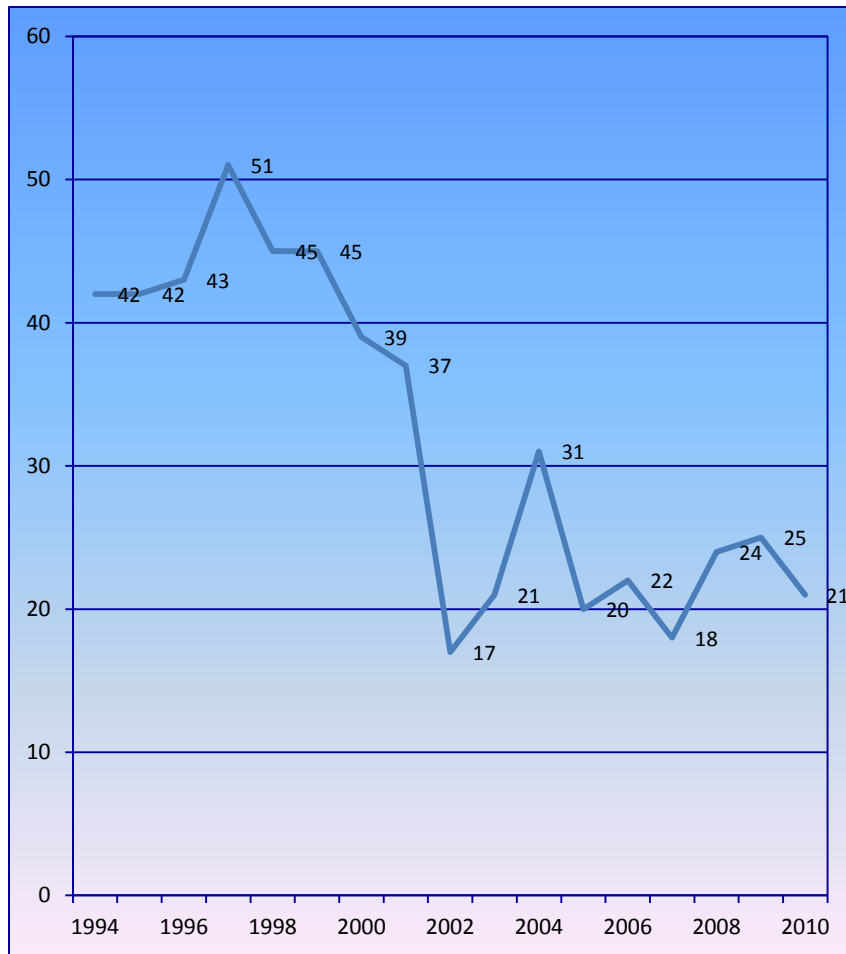


Local Production: Opportunities for south-south co-operation technology transfer (2)

- Thailand, Brazilian public sector and Indian private sector involved in different forms of technology transfer to facilitate local production in Africa
- AU Pharmaceutical Manufacturing Plan for Africa (2005) and regional manufacturing plans show increased political will
- Opportunities to share experiences on enhancing regulatory environment to promote local production
- Training of key human resources by countries with significant manufacturing capacity



Challenges for south-south co-operation in innovation (1)



- 90/10 research Gap
- Current patent system does not incentivize innovation in neglected diseases
- Increase in north-south R&D collaborations e.g. acquisition of Indian generic companies by foreign originators, SA joint venture with Swiss company



Opportunities for south-south co-operation: innovation

- Possible co-operation e.g. between OSDD of India's CSIR and other southern research institutions e.g. ANDI
- Establishment of a policy group to support findings of CEWG including prizes and R&D treaty as new innovation models
- More twinning of southern institutions working on scientific research for diseases affecting the global south
- Public support of innovation pipeline for diseases commonly affecting developing countries

