



**FOCUS GROUP DISCUSSION (FGD) ON
THE IMPLICATIONS OF TRIPS AGREEMENT ON BANGLADESH AGROCHEMICAL INDUSTRY
Organized by the Support to SUSTAINABLE GRADUATION PROJECT (SSGP), ERD**

Outcome Document

A Focus Group Discussion on ‘The Implications of TRIPS Agreement on Bangladesh Agrochemical Industry’ took place on 04 January 2023 at the Planning Commission Campus in Dhaka. Support to Sustainable Project (SSGP) of Economic Relations Division (ERD) organized the FGD. Wing Chief of the Development Effectiveness Wing of ERD and the Project Director of SSGP Mr. Farid Aziz chaired the event.

At the outset, the chair welcomed all the participants in the meeting. Reflecting on the context of organizing the FGD, he mentioned that the event has been organized to discuss the potential implications of the TRIPS agreement on Bangladesh’s agrochemical industry against the backdrop of Bangladesh’s ongoing LDC Graduation journey and to suggest a possible way forward. He requested the President of Bangladesh Agrochemical Manufacturers Association (BAMA) Mr. KSM Mostafizur Rahman to deliver the keynote presentation of the event.

Keynote Presentation

Mr. KSM Mostafizur Rahman, in his keynote presentation, highlighted the historical background of the Agrochemicals Act in Bangladesh. He also highlighted the contribution of the agrochemicals sector to the overall economic development of the country. He also provided an overview of the market size and market share of various major players. He presented a comparison of the Patent Act benefits received by the agrochemicals and pharmaceuticals sectors. He pointed out that although both pharmaceuticals and agrochemicals industries are exempted from the obligations of patent right in the TRIPS agreement under the WTO agreement in Bangladesh due to the country’s LDC status—the agrochemical sector is deprived of enjoying the benefit. He opined that the local agrochemical industry would have been able to witness similar growth as had been experienced by pharmaceuticals. Lastly, he came up with the following major suggestions:

- ‘Patent Protection Law’ exemption should be fully implemented in Agrochemical Industries in Bangladesh before LDC graduation.
- Making a list of essential agrochemicals which should be exempted from any kind of patent right protection and has to be implemented on an urgent basis as Bangladesh is nearing the LDC graduation.

Remarks from Discussants

The chair thanked Mr. Rahman for his presentation. He then invited the designated discussants of the event to provide their views and feedback.

Mr. Nesar Ahmed, International Trade Expert, SSGP

Mr. Nesar Ahmed, in his statement, said that agrochemical products are exempted from all but three articles (articles 3, 4 and 5) of the TRIPS agreement under the WTO. He mentioned that these exemptions include patent, mailbox and exclusive marketing right. He also observed that as per the existing TRIPS exemption rules for LDCs, pharmaceuticals and agrochemicals products are eligible for equal treatment. He suggested the local agrochemical industry to make maximum full use of these TRIPS flexibilities. He suggested that the industry needs to maintain safety standards as set by the authority, if any.



Mr. Mirza Golam Sarwar, Assistant Registrar, DPDT

Mr. Sarwar recalled that although DPDT had been preserving the patent applications coming from the pharmaceuticals and agrochemicals sector after 2008, no patent had been provided since then. He mentioned that DPDT had cancelled all those 1340 patent applications received in the mailbox during this period through a circular issued in September 2022. He also mentioned that DPDT is currently accepting no more patent applications. He emphasized greater coordination between the Directorate General of Drug Administration, Department of Agricultural Extension, Bangladesh Agrochemical Manufacturers Association, Bangladesh Association of Pharmaceutical Industries and other relevant entities to address the patent-related challenges faced by the agrochemical sector.

Mr. Md. Salim Ullah, Senior Assistant Secretary, Ministry of Industries:

Mr. Salim Ullah, in his remarks, mentioned that the pharmaceuticals and agrochemicals sector had been provided with equal treatment under the existing patent act of the country and would also be provided with equal treatment under the upcoming amendments of the aforementioned act. He also mentioned that the sponsoring ministry of the agrochemicals sector is the Ministry of Agriculture, which in turn, had delegated this power to the Department of Agricultural Extension (DoAE). He further noted that local agricultural manufacturers had to receive a recommendation from the Pesticides Technical Advisory Committee (PTAC) formed by the DoAE for launching any new product in the market. He also mentioned that the Ministry of Industries will take initiative if approached, requesting the Ministry of Agriculture to provide similar support to the agrochemicals industries as the Pharmaceuticals are currently enjoying. The Ministry of Agriculture needs to take urgent initiatives to ease the process and make the rules and regulations flexible for the agrochemicals sector to tap the potentials of the industry. He suggested for organizing training programs for the members of PTAC and relevant stakeholders to increase their awareness about LDC Graduation, TRIPS-related issues international and national rules, regulations and legal provisions related to agrochemical patents.

Dr. Mostafa Abid Khan, Former Member, Bangladesh Trade and Tariff Commission

Dr. Abid, in his remarks, pointed out that there is no patent obligation for the local agrochemical industry under the TRIPS agreement or the Pesticides Act of the country. He also asked DPDT to check and review the list of agrochemical products that had been patented so far. He also called for devising ways and means for cancelling all the patents provided earlier—which in turn would pave the way for the agrochemical industry to avail the patent exemption. He also mentioned that there are provisions under the Pesticides Act for fixing the prices of some essential pesticides by the Government.

Mr. Md. Hafizur Rahman, Additional Secretary (Director General), WTO Cell

Mr. Md. Hafizur Rahman, in his remarks, reiterated the call for cancelling all the patents provided earlier. In this context, he asked the DPDT to check and review the list of agrochemical products that had been patented before 2008. He mentioned that the government is negotiating with the WTO to allow the general exemption of TRIPS-related obligations up to the year 2033, the remaining period of the benefit offered to LDCs even after graduation. Referring to the Drugs (Control) Ordinance, 1982 which paved the way for the flourishing of local pharmaceuticals manufacturing-- he suggested that similar legal provisions may be considered to utilize the potential of the agrochemical industry.

Open Discussion



At this stage, the floor was opened for comments, suggestions and questions from the participants. Joining in the discussion, the Component Manager of SSGP Dr. Md. Rezaul Bashir Siddique said that the Commerce Ministry and the Ministry of Industries should take the lead role in addressing the concerns raised by the agrochemicals sector. Noting that there is a certain patent period for any patented product, Deputy Secretary of ERD Ms. Azizun Nahar said that DPDT should also check whether the patent period of the already patented products had expired or not. Mr. Anisuddoula, the Adviser of the BAMA and the Chairman of ACI Group, strongly urged the Government to support the agrochemical industries as it extended to the Pharmaceuticals considering its significant impact in the agriculture sector, food security and overall economy for self-reliance.

Recommendations:

The event came up with the following major recommendations:

- Agrochemical products are exempted from all obligations but three articles in the TRIPS agreement (article 3, 4 and 5) including patent, mailbox and exclusive marketing rights.
- Pharmaceuticals and agrochemicals products are also eligible for equal treatment under the existing TRIPS exemption rules. There is no patent obligation for the local agrochemical industry under the TRIPS agreement, the prevailing Patent Act or the Pesticides Act of the country. The local agrochemical industry should be able to fully enjoy the exemptions provided under the aforementioned rules, regulations and legal provisions.
- A list of essential agrochemicals should be prepared which would be exempted from any kind of patent right protection.
- A training program can be organized for the members of PTAC and relevant stakeholders for enhancing their awareness about LDC Graduation, TRIPS related issues and other national and international rules, regulations and legal provisions.
- DPDT may check and review the list of agrochemical products that had been patented so far in the country. It may also check whether the patent period of the already patented products had expired or not and may assess the ways and means for cancelling all the agrochemical patents if needed.
- Legal provisions similar to the Drugs (Control) Ordinance, 1982 which paved the way for the flourishing of local pharmaceuticals manufacturing—may be considered for the agrochemical industry considering its huge implications in the agriculture sector and the economy and large growth potential.
- The Commerce Ministry and the Ministry of Industries may undertake urgent steps to addressing in the patent-related challenges faced by the agrochemical sector and the SSGP project is ready to facilitate if approached.

Wrap-Up and Way Forward

The chair, in his concluding remarks, thanked all the participants for the feedback and recommendations. He mentioned that the recommendations and feedback derived from the FGD would be forwarded to the National Committee on LDC Graduation as well as the Subcommittee on STS. He also suggested all stakeholders for maintaining the linkage created by the event and follow up on the recommendations.