

THE TRIPS AGREEMENT: A KENYAN PERSPECTIVE

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ABSTRACT

Kenya faces numerous challenges in the provision of effective health care to its citizens. The resurgence of communicable and non-communicable diseases such as malaria, cancer, tuberculosis and the emergence of the HIV/AIDS pandemic have placed considerable focus on the issue of access to medicines. To complicate matters, the TRIPS Agreement, which binds Kenya, poses grave challenges in the delivery of essential medicines to poor and diseased citizens due to the cost implications of pharmaceutical drugs that are subject to the onerous patent protection under the Agreement. Moreover, the TRIPS Agreement has also impacted heavily on the fair and equitable transfer of environmentally sound technologies (ESTs) to developing countries. This is crucial because, Kenya, like the rest of the world, is experiencing climate change and the associated adverse effects. Renewable sources of energy hold the key to ameliorating the problem, however, climate change-related technology transfer is marred by high costs of available technologies, compounded by the granting and maintenance of monopoly rights for the creators of technology through IPRs. To militate against these problems Kenya must use the mechanisms provided under TRIPS to promote public health and the use of climate friendly technologies by reducing the costs of essential drugs and ESTs respectively. This research study interrogates these issues and makes appropriate findings.