

Public Policy Statement: Compulsory Licensing

- Merck's profits fund the development of innovative pharmaceuticals and vaccines which meet unmet medical needs. Merck does not expect low income countries to pay prices that incorporate the cost of product development (especially for HIV therapies); middle-income countries should support technological innovation by paying higher prices than the poorest countries.
- Merck respects that international trade agreements, especially the World Trade Organization's TRIPs agreement (trade-related aspects of intellectual property rights) and subsequent Declaration on TRIPs and Public Health agreements, provide countries with the authority, in limited circumstances, to use compulsory licensing. In the case of medicines, we further respect that compulsory licenses may be issued, under limited and specified circumstances, to meet a health crisis or emergency.
- However, both the letter and spirit of international trade rules suggest that such authority should be used only in the most extraordinary and limited circumstances in order to foster a global environment that supports all forms of innovation. Merck will work vigorously in the interests of meeting health needs to discourage the compulsory licensing of Merck medicines.
- In the case of medicines, global diseases such as HIV/AIDS present challenges for all involved, including pharmaceutical companies, to observe and respect intellectual property rights in a manner that supports prevention and treatment of disease as well as creates incentives for research into new medicines and vaccines.
- Merck understands that access to medicines is a particularly complex issue in the world's least developed countries, and to ensure that patents are not singled out as a cause for lack of access, Merck does not file for patents for its products in those countries.
- Merck can offer a range of value-added services, such as training healthcare workers, as appropriate, and technology transfer and manufacturing, as long as recipients share Merck's commitment to the highest standards of quality. Developing countries will benefit from such value because our investments generate far-reaching public health and economic benefits. For example, current methods for screening and treatment of AIDS patients can reduce the risk of the development of drug-resistant strains of the disease.
- The price of medicine is not the only barrier to treatment in the developing world. A crippling lack of healthcare workers, poor healthcare delivery systems, a brain drain, and other factors also impede access to care.
- Adopting strong intellectual property protections is an important condition for foreign direct investment in developing countries. Minimizing the use of compulsory licenses will promote economic growth for middle income countries and enhance these countries' ability to nurture the technological and commercial capabilities that are essential for the development of a high-value, knowledge-intensive life sciences sector.

July 2008