



Public Health and Intellectual Property

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Challenges

- To balance IP objective (innovation, trade) and development objective, in particular public health needs
- There is a growing concern for the global community to look at IP in the context of development.
- Access to care and treatment



Current public health-IP-related issues/ cases

- Compulsory license on essential medicines: Thailand, Brazil, Kenya
- Sharing of virus specimens and fair and equitable access to pandemic vaccines
- Dispute cases with pharmaceutical companies: India, Philippines



Existing platform

- Intergovernmental Working Group (IGWG) on Public Health, Innovation and Intellectual Property (2nd IGWG meeting 5-10 Nov.2007)
- Intergovernmental Meeting (IGM) on pandemic influenza preparedness: Sharing of influenza viruses and access to vaccines and other benefits (Nov. 2007, Geneva)
- TRIPS flexibilities



Objectives

- Access to medicines based on health needs, not a capacity to pay
- How to protect public interest ? certain degree of flexibilities
- Maintain incentives for innovation and R&D
 - R&D towards better, effective and safe medicines
 - Affordable price
- Effective framework and guidelines in response to influenza pandemic
 - Global Influenza Surveillance Network (GISN)
 - Sharing of virus specimens and equitable access to pandemic vaccines
- Increase global production capacity
 - Capacity building and technology transfer
 - Country / global stockpiling



Compulsory license

(Thailand: Efavirenz, Lopinavir+Ritonavir, Clopidogrel)

- Universal access
 - Access to essential medicines
 - Affordability
- Quality
- Public non-commercial use (government use)
- In compliance with TRIPS and the Thai Patent Act



Compulsory license

(Thailand: Efavirenz, Lopinavir+Ritonavir, Clopidogrel)

- Door for negotiations is opened before and after an announcement to implement CL.
- Issuing CL does not affect the existing market size of patented products.
- The patent holder still has the right to produce, import and sell their products.



Proposal for possible solutions

- Two-tier pricing (low margin in low income market, high margin in high income market)
- High-volume, low-margin approach
- Advance procurement mechanism
- Encourage competition incl. exchange information on drug prices
- Capacity building on IP handling
- Maintain TRIPS flexibilities; TRIPS plus must not be in any bilateral FTA.



Message

- Political will to put public health as a priority
- Constructive and innovative way to address public health problem and provide incentives for research and development of essential health technologies
- Cooperative approach and win-win solution that will balance interest of all stakeholders
- Promote coherence among relevant international organizations