

# Roche Position on TRIPS and the Doha Declaration

At Roche, we are turning advances in medical and data science into innovative diagnostics and life-changing treatments for patients. We are constantly innovating to develop and deliver products for the benefit of millions of people around the world. Roche strongly believes that robust intellectual property (IP) systems stimulate innovation and economic growth for the benefit of society as a whole<sup>1</sup>.

- Roche supports the international standards of IP protection of the TRIPS<sup>2</sup> Agreement.
- Roche supports the decision of the TRIPS Council to further delay in LDCs<sup>3</sup> the implementation of certain TRIPS provisions.
- Roche supports the § 6 solution of the Doha Declaration.

## TRIPS and the Doha Declaration

Roche fully supports the international standards of IP protection outlined in TRIPS. According to its objectives,<sup>4</sup> *"the protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation ..., to the mutual advantage of producers and users ..."*. This statement is often considered as the legal basis for a flexible interpretation of the TRIPS Agreement ("TRIPS flexibilities").

The DOHA Declaration of 2001 *"affirms that the TRIPS Agreement can and should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health ..."*<sup>5</sup>. At the same time, the DOHA Declaration explicitly *"recognizes the importance of intellectual property protection for the development of new medicines"*<sup>6</sup>.

Roche recognizes the different levels of development of countries and does not file nor enforce patents in LDCs and LICs. Roche fully supports the decision of the TRIPS Council to delay in LDCs the implementation of certain TRIPS provisions for pharmaceutical products until 2033<sup>7</sup>.

The so-called "§6 solution" of the Doha Declaration states that countries with no or insufficient manufacturing capacity can benefit from a compulsory license being implemented in a third country for the import into their home country<sup>8</sup>. Roche fully supports this, provided the specific process for this type of compulsory license and the general conditions for compulsory licenses according to TRIPS<sup>9</sup> are respected. Specifically, each case has to be considered on its own merits.

*This position paper was approved by the Sustainability Steering Committee and by the Corporate Executive Committee and entered into force in May 2020.*

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<sup>1</sup> For more details see «Roche Position on Intellectual Property»

<sup>2</sup> TRIPS: Trade Related Aspects of Intellectual Property Rights

<sup>3</sup> LIC: Low Income country; LDC: Least Developed Country

<sup>4</sup> Article 7 TRIPS

<sup>5</sup> DOHA Declaration

<sup>6</sup> DOHA Declaration

<sup>7</sup> See TRIPS Decision IP/C/73 on Art. 66.1 and §7 of the DOHA Declaration.

<sup>8</sup> See §6 of the DOHA Declaration and Decision effective on 23.1.2017 to amend the TRIPS Agreement (see also newly proposed Art. 31bis)

<sup>9</sup> See Art. 31 TRIPS