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Article 31

Other Use Without Authorization of the Right Holder

Where the law of a Member allows for other use <sup>7</sup> of the subject matter of a patent without the authorization of the right holder, including use by the government or third parties authorized by the government, the following provisions shall be respected:

( footnote original) <sup>7</sup> "Other use" refers to use other than that allowed under Article 30.

(a) authorization of such use shall be considered on its individual merits;

(b)

adequate remuneration in the circumstances  
of the economic value of the authorization;

provisions relating to the authorization of such use  
shall be subject to other independent review by a distinct



crises, including those relating to HIV/AIDS, tuberculosis, malaria and other epidemics,

For Members that have yet to accept the Protocol, the waiver provisions established under the General Council decision of 30 August 2003 on the "Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health" continue to apply .<sup>11</sup>

8. Paragraph 3(d) of the Ministerial Decision on the TRIPS Agreement of 17 June 2022 states:

"(d) Determination of adequate remuneration under Article 31(h) may take account of the humanitarian and not-for-profit purpose of specific vaccine distribution programs aimed at providing equitable access to COVID-19 vaccines in order to support manufacturers in eligible Members to produce and supply these vaccines at affordable prices for eligible Members. In setting the adequate remuneration in these cases, eligible Members may take into consideration existing good practices in instances of national emergencies, pandemics, or similar circumstances."<sup>4</sup>

(footnote original) <sup>4</sup> This includes the remuneration aspects of the WHO-WIPO-WTO Study on Promoting Access to Medical Technologies and Innovation (2020), and the Remuneration Guidelines for Non-Voluntary Use of a Patent on Medical Technologies published by the WHO (WHO/TCM/2005.1)."<sup>12</sup>

Current as of: June 2024

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<sup>11</sup> [WT/L/540](#) and [Corr.1](#). This waiver decision implements paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health ([WT/MIN\(01\)/DEC/2](#)). It was adopted by the General Council in the light of a statement read out by the Chairman as reflected in paragraphs 29-31 of the minutes of the General Council meeting in [WT/GC/M/82](#).

<sup>12</sup> [WT/L/1141](#), para. 3(d).