

TRIPS Flexibilities used widely in high-income countries

Millions of people around the world are priced out of access to life-saving medicines, yet the use of legal tools to reduce prices has been under-reported and misunderstood to be rare. However, [new research](#) from our colleagues at [Medicines Law & Policy](#), published in BMJ Global Health reveals wide use of these tools by both high and low-income countries. This has important policy implications at a time when rising medicines prices are a growing global policy concern. The legal tools, contained in the World Trade Organization Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement and known as ‘TRIPS flexibilities’, have been used hundreds of times to help governments combat health challenges ranging from pandemics like HIV and Covid-19, to rare diseases, to cancers and other non-communicable diseases. One of the key findings revealed in the research is how often wealthy countries employ TRIPS Flexibilities. The research was based on data from the [TRIPS Flexibilities Database](#) maintained by Medicines Law & Policy, and which HAI has also used to inform our [Flexibilities Navigator](#).

Titled “[TRIPS flexibilities help change policy and practice to increase access to medicines: Evidence from 2001-2024](#)”, the research found that over half of the compulsory licences issued in the last decade have been by high-income country governments, in many cases responding to the urgent need for vaccines and treatments for Covid-19. With a compulsory licence, the government can authorise the production of a patented medicine without the patent holder’s consent, thereby opening the market to generic producers.

Interestingly, nearly half of the compulsory licences that were not executed were due to an offer from the company to increase access, including via a voluntary license, price reduction or donation, enabling access even with the mere threat of a compulsory licence. But countries seeking to use such measures face political pressure, and may need to overcome additional obstacles such as restrictions on use of data needed to register lower-cost generic medicines.

Commenting on the newly published research, HAI Senior Consultant, Jaume Vidal, said:

This important and timely research confirms what we have argued for some time; the use of TRIPS flexibilities is not limited to emergency contexts or specific diseases, such as HIV/AIDS, but increasingly linked to excessively high prices of a wide range of treatments for both communicable and non-communicable diseases. More countries are using intellectual property management tools as part of their drive to improve access to health technologies. As HAI’s [TRIPS Flexibilities Navigator](#) and recently published [briefing paper](#) shows, successful use of TRIPS flexibilities at

the domestic level depends on the effective collaboration between government institutions and other public entities. Regional and multilateral cooperation is another important factor for a successful implementation of these tools.