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Drug Access

Thailand Will Stand By Decision To Issue Compulsory Licenses, Health Minister Says

[May 02, 2007]

Thai Health Minister Mongkol Na Songkhla on Wednesday said that the country will stand by its decision to issue compulsory licenses for several medications, including two antiretroviral drugs, despite the Office of the U.S. Trade Representative placing the country on a list of copyright violators in its annual [report](#), the Associated Press reports (Associated Press, 5/2). The Thai government in November 2006 and January issued compulsory licenses to produce lower-cost versions of Merck's antiretroviral [Efavirenz](#) and Abbott Laboratories' antiretroviral Kaletra, respectively. Since then, the government and drug companies have continued negotiations.

The trade representative's report, which was released on Monday, placed Thailand on its Priority Watch List and cited an "overall deterioration" in the protection and enforcement of intellectual property rights in the country. According to the report, which reviews 87 countries, the U.S. is "concerned about the weak protection against unfair commercial use of undisclosed test and other data" submitted by drug companies seeking marketing approval for their products, as well as "pharmaceutical patent approvals" by the Thai Department of Intellectual Property. The report said that in late 2006 and 2007, "there were further indications of a weakening of respect for patents, as the Thai Government announced decisions to issue compulsory licenses for several patented pharmaceutical products." The report also said that although the U.S. "acknowledged a country's ability to issue such licenses in accordance with" World Trade Organization regulations, the "lack of transparency exhibited in Thailand represents a serious concern." The report did not mention any drugs by name but "appeared to be referring" to the compulsory licenses for Efavirenz and Kaletra. Thailand, which was the only country to be added to the Priority Watch List this year, will be monitored to "encourage and maintain" effective

intellectual property protections, according to the report ([Kaiser Daily HIV/AIDS Report, 5/1](#)).

Comments

Issuing compulsory licenses is "meant to allow those in need who can't afford the expensive drugs to have access to them," Mongkol said, adding, "I insist that Thailand will continue with it for the benefits of the public" (Associated Press, 5/2). According to Mongkol, pharmaceutical companies likely called on USTR to place the country on the watch list "in a bid to damage Thailand's credibility." Nimit Tienudom, director of the AIDS Access Foundation, also criticized the report. He said, "These drug companies want the Thai government to stop using" compulsory licenses that allow a country to produce generic drugs (Agence France-Presse, 5/2).

Some experts said Thailand's move could set off similar actions in other emerging markets. "If one country makes a decision, it can embolden others," Lawrence Kogan -- CEO of the Institute for Trade, Standard and Sustainable Development -- said.

Gustav Ando, an analyst for Global Insight, said, "If Thailand sets a precedent and says we don't have to uphold patents, it will probably start in Asia in the Philippines and Malaysia, and then spread to Latin America." American University's Washington College of Law last week issued a report that concluded Thailand's actions comply with patent law, Reuters reports. Sean Flynn of the law school's justice and intellectual property program said, "Arguments to the contrary" of Thailand's actions "should be dismissed as political posturing" (Dixon, Reuters, 5/1). Thai Deputy Prime Minister Kosit Punpiemrat on Tuesday said that Mongkol will visit Washington, D.C., in the coming weeks to explain the country's decision to issue compulsory licenses (Pinyorat, AP/Forbes, 5/1).

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