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Compulsory Licensing

Practical Experiences
and Ways Forward

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Compulsory Licensing

Practical Experiences and Ways Forward

Introduction
Reto M. Hilty and Kung-Chung Liu

Part I - Practices Across Jurisdictions

Compulsory Licence Under Indian Patent Law 11
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Scope and Duration of Compulsory Licensing: Lessons from National Experiences

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Abstract The TRIPS Agreement provides significant flexibility to member countries to determine the scope and duration of compulsory licences issued by them. TRIPS mandates, however, that the scope and duration of the licence must not go beyond the purpose for which the licence is issued. For countries that have never invoked compulsory licences before, the lack of detailed provision on this offers little guidance on how to invoke such licences. This chapter examines national experiences on compulsory licences and draws lessons from them by identifying the relevant criteria in setting the scope and duration of compulsory licences. From these experiences, several observations can be made. It is essential that the terms of such non-voluntary licences address the harm to be alleviated. The terms of the licences must be relevant and effective and proportionate to the harm to be alleviated. The chapter ends by suggesting that national authorities have broad

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