

FEDERAL OFFICIAL GAZETTE – SECTION 1

FEDERATIVE REPUBLIC OF BRAZIL

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Acts of the Executive Power

DECREE No. 6,108, OF MAY 4th 2007

The Decree grants compulsory licensing, in the public interest, of patents relating to Efavirenz, for non-commercial public use.

THE PRESIDENT OF THE REPUBLIC, exercising the power conferred upon him by article 84, item IV, of the Constitution, and considering the provisions of article 71 of Law No. 9,279, of May 14th 1996, and article 4 of Decree No. 3,201, of October 6th 1999,

D E C R E E S:

Article 1. Compulsory licensing in the public interest is hereby granted, ex officio, for Patent No. 1100250-6 and Patent No. 96088397.

Paragraph 1. The compulsory licensing provided for above is granted on a non-exclusive basis and for the purposes of non-commercial public use, within the scope of the National STD and AIDS Programme, under the terms of Law No. 9,313, dated November 13th 1996, being valid for five years, and may be extended for up to five more years.

Paragraph 2. The compulsory licensing provided for above shall be terminated by act of the Minister of State for Health, if the circumstances affecting the public interest which lead to it cease to exist.

Article 2. Payment of remuneration to the right holder of the patent referred to in Article 1 shall be one and a half per cent of the cost of the medication produced and finished by the Ministry of Health or the price of the medication provided to it.

Article 3. The right holder of the patents licensed in Article 1 is bound to provide the Ministry of Health with all necessary and sufficient information for the effective reproduction of the protected objects, and the Union shall ensure the appropriate protection of such information against unfair competition and dishonest commercial practices.

Paragraph 1. In the event of failure to comply with the foregoing obligation, the provisions of Article 4 and Title I, Chapter VI, of Law No. 9,279, of May 14th 1996, shall apply.

Article 4. The exploitation of the patents licensed under the terms of this Decree may be carried out directly by the Union or by third parties duly contracted or covenanted, and the reproduction of the patented objects shall remain forbidden for other purposes, under penalty of being considered illicit.

Article 5. In circumstances in which it is not possible to provide for the situation of public interest with the product placed on the domestic market, or the manufacture of the patented objects is shown to be unviable, wholly or in part, by the Union or by contracted or covenanted third parties, the Union may import the patented product, without prejudice to the remuneration provided for in Article 2.

Article 6. The Ministry of Health shall notify the National Institute of Industrial Property (*INPI*), for the record, of the compulsory licensing granted by this Decree, as well as alterations to and the termination of such licensing.

Article 7. This Decree shall come into force on the date of its publication.

Brasília, May 4th 2007; 186th year of Independence and 119th of the Republic.

LUIZ INÁCIO LULA DA SILVA

José Gomes Temporão