

Patents, TRIPS and the price of innovation at home

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Intellectual property forms the legal foundation of the business model described in Part G, Chapter IV. Its international protection faces pressure from several directions. The narrow TRIPS waiver of 2022 for COVID-19 vaccines has had little practical effect, but the debate it reflected has not ended. The WHO Pandemic Agreement, adopted in May 2025, contains provisions on technology transfer on mutually agreed terms, while its annex on pathogen access and benefit sharing was still under negotiation in 2026.¹ In the European Union, the reform of the pharmaceutical legislation and the introduction of a compulsory licensing instrument for crisis situations at Union level have shifted the balance slightly towards public authorities.²

At home, the industry faces the cost-containment policy described in Part G, Chapter IV. The second package of cost-containment measures for the compulsory health insurance includes a legal basis for confidential price models, which the industry supports, together with measures that reduce prices and volumes, which it opposes.³ Since 2025 the industry has argued that Switzerland, as a high-income country and home of the industry, should pay prices for innovative medicines that reflect American most-favoured-nation pricing, while the Federal Office of Public Health and the health insurers have warned that higher prices would add to the burden of premiums. The debate on medicine prices has thus acquired a geopolitical dimension. Swiss price levels influence American prices through the reference mechanism, so that a Swiss decision on a single medicine can have consequences for a company's American revenue many times larger than its Swiss sales.

The American policy of 2025 has sharpened an old tension between Switzerland as a pharmaceutical location and Switzerland as a payer of health care. Some observers have suggested that the companies may in future withhold launches in Switzerland or delay them until a price

acceptable for reference purposes has been agreed. Others have argued that a home market that offers its own population the latest medicines only after long delays would damage the industry's political legitimacy in Basel and in Bern.⁴ How Switzerland resolves this tension will influence both the industry's willingness to concentrate research in Basel and the political support it can expect in the canton.

1 Notes

1. WHO Pandemic Agreement adopted by the Seventy-eighth World Health Assembly on 20 May 2025; negotiations on the annex on Pathogen Access and Benefit-Sharing (PABS) in the Intergovernmental Working Group during 2025–2026. Status to be verified. ↩
2. Regulation (EU) on compulsory licensing for crisis management, proposed by the Commission on 27 April 2023 (COM(2023) 224) and adopted in 2025; date of adoption and entry into force to be verified. ↩
3. Federal Act on Health Insurance, amendment of the second cost-containment package (Kostendämpfungspaket 2), with provisions on price models and access to official documents; final parliamentary vote and entry into force to be verified. See Part G, Chapter IV, sections "The price of a medicine in Switzerland" and "Confidential price models". ↩
4. On the Swiss debate about launch delays and access to innovative medicines in light of US MFN pricing, see the statements of Interpharma, santésuisse, curafutura (or its successor organisation) and the Federal Office of Public Health in 2025–2026, and the reporting of the Neue Zürcher Zeitung and SRF. Status to be verified. ↩

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