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News Release

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Merck Announces Joint Agreement With ImClone and Bristol-Myers Squibb for Erbitux in Japan

- **Co-development and co-commercialization of Erbitux in metastatic colorectal cancer upon health authority approval**

Darmstadt, October 17, 2007 – Merck KGaA announced today that it has established an agreement with ImClone Systems Incorporated and Bristol-Myers Squibb Company for the co-development and co-commercialization of Erbitux® (cetuximab) in Japan if approved by the Japanese Pharmaceuticals and Medical Devices Agency (PMDA). Under terms of the co-development and co-commercialization agreement, Merck, ImClone Systems and Bristol-Myers Squibb will jointly market the product under the common trademark Erbitux in Japan for the treatment of metastatic colorectal cancer (CRC), as well as for the treatment of any other cancers that the parties decide to pursue. Merck and BMS will utilize their respective sales forces in Japan and the three companies will share development costs, sales and marketing expenses, and profits realized as a result of the agreement. Merck Serono Japan will distribute the product and book the sales for the collaboration.

Pursuant to the agreement, Merck will receive 50% of the profit or loss from sales in Japan and ImClone Systems and BMS will each receive 25% of the profit or loss from sales in Japan. In addition to its percentage of profit or loss, ImClone Systems will receive from Merck a royalty equal to 4.75% of total net sales in Japan.

Merck, ImClone Systems and Bristol-Myers Squibb submitted an application for the use of Erbitux in treating patients with mCRC to the Japanese Pharmaceuticals and Medical Devices Agency (PMDA) earlier this year. The submission in Japan is a result

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of a development collaboration between the three companies and was based on results from studies conducted in Europe, North America and Japan. Erbitux is the first monoclonal antibody that inhibits the epidermal growth factor receptor (EGFR) to be submitted for marketing authorization in Japan.

“We are pleased that the plans for development and commercialization of Erbitux in Japan have been confirmed,” commented Dr Wolfgang Wein, Senior Executive Vice President, Oncology, Merck Serono. “This agreement will ensure we can provide Japanese patients with a new important treatment option for metastatic colorectal cancer as soon as our application to the regulatory authorities is approved.”

In Japan, the incidence of colorectal cancer has significantly increased over the last 50 years.¹ Colorectal cancer is the second most common cancer, after stomach cancer, affecting an average of 95,651 people every year.² Approximately 25% of Japanese colorectal cancer patients present with metastatic disease.³ Erbitux was first approved for the treatment of metastatic colorectal cancer in Switzerland in December 2003. It was approved for use in the United States by the FDA in February 2004 and by EMEA in June 2004.

About Erbitux

Erbitux[®] is a first-in-class and highly active IgG1 monoclonal antibody targeting the epidermal growth factor receptor (EGFR). As a monoclonal antibody, the mode of action of Erbitux is distinct from standard non-selective chemotherapy treatments in that it specifically targets and binds to the EGFR. This binding inhibits the activation of the receptor and the subsequent signal-transduction pathway, which results in reducing both the invasion of normal tissues by tumor cells and the spread of tumors to new sites. It is also believed to inhibit the ability of tumor cells to repair the damage caused by chemotherapy and radiotherapy and to inhibit the formation of new blood vessels inside tumors, which appears to lead to an overall suppression of tumor growth.

The most commonly reported side effect with Erbitux is an acne-like skin rash that seems to be correlated with a good response to therapy. In approximately 5% of patients, hypersensitivity reactions may occur during treatment with Erbitux; about half of these reactions are severe.

Erbitux has already obtained market authorization in 69 countries. It has been approved for the treatment of colorectal cancer in 68 countries so far: Argentina, Australia, Belarus, Canada, Chile, China, Colombia, Costa Rica, Croatia, Dominican Republic, Ecuador, El Salvador, the European Union, Guatemala, Honduras, Hong Kong, Iceland, India, Indonesia, Israel, Kazakhstan, Lebanon, Malaysia, Mexico, Montenegro, New Zealand, Nicaragua, Norway, Panama, Peru, the Philippines, Russia, Serbia, Singapore, South Korea, Switzerland, Taiwan, Thailand, Ukraine, Uruguay, the US, and Venezuela for use in combination with irinotecan in patients with EGFR-expressing mCRC who have failed prior irinotecan therapy. Erbitux is also approved for single-agent use in: Argentina, Australia, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Hong Kong, Lebanon,



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Mexico, New Zealand, Nicaragua, Panama, Peru, the Philippines, Russia, Singapore, Thailand, the US, and Venezuela.

In addition, Erbitux in combination with radiotherapy has been approved for the treatment of locally advanced squamous cell carcinoma of the head and neck (SCCHN) in 61 countries: Argentina, Australia, Belarus, Brazil, Chile, Colombia, Costa Rica, Croatia, El Salvador, the European Union, Guatemala, Hong Kong, Iceland, India, Indonesia, Israel, Kazakhstan, Lebanon, Malaysia, Mexico, Montenegro, Nicaragua, Norway, Panama, Peru, the Philippines, Russia, Serbia, Singapore, Switzerland, Taiwan, Ukraine, Uruguay, the US, and Venezuela. In Argentina, Chile, Costa Rica, El Salvador, Guatemala, Hong Kong, Israel, Lebanon, Mexico, Nicaragua, Panama, Peru, the Philippines, Russia, and the US, Erbitux is also approved as monotherapy in patients with recurrent and/or metastatic SCCHN who failed prior chemotherapy.

Merck licensed the right to market Erbitux outside the US and Canada from ImClone Systems Incorporated of New York in 1998. In Japan, ImClone Systems Incorporated, Bristol-Myers Squibb Company and Merck jointly develop and, upon approval, commercialize Erbitux. Merck has an ongoing commitment to the advancement of oncology treatment and is currently investigating novel therapies in highly targeted areas, such as the use of Erbitux in colorectal cancer, squamous cell carcinoma of the head and neck and non-small cell lung cancer. Merck has also acquired the rights for the cancer treatment UFT[®] (tegafur-uracil) – an oral chemotherapy administered with folinic acid (FA) for the first-line treatment of metastatic colorectal cancer.

Merck is also investigating among other cancer treatments the use of Stimuvax[®] (formerly referred to as BLP25 Liposome Vaccine) in the treatment of non-small cell lung cancer. The vaccine was granted fast-track status in September 2004 by the FDA. Merck obtained the exclusive worldwide licensing rights from Biomira Inc. of Edmonton, Alberta, Canada.

References:

1. Koyama Y and Kotake K. *Dis Colon Rectum*. 1997;40:S2-9.
2. <http://www-dep.iarc.fr/> (Globocan 2002)
3. Cunningham D et al. *Eur J Cancer* 1993; 29A: 2007–2079.

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Merck is a global pharmaceutical and chemical company with sales of EUR 6.3 billion in 2006, a history that began in 1668, and a future shaped by 30,000 employees in 61 countries. Its success is characterized by innovations from entrepreneurial employees. Merck's operating activities come under the umbrella of Merck KGaA, in which the Merck family holds an approximately 70% interest and free shareholders own the remaining approximately 30%. In 1917 the U.S. subsidiary Merck & Co. was expropriated and has been an independent company ever since.