

Superintendencia de
Industria y Comercio



Regional Seminar for Certain Latin American and Caribbean Countries on the Implementation and Use of Several Patent-Related Flexibilities

*Topic 7: Flexibilities Related to the Definition of Patentable Subject
Matter*

**Bogota, Colombia
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FLEXIBILITIES RELATED TO THE DEFINITION OF PATENTABLE SUBJECT MATTER



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Jamaica's Patent History

- ◎ Jamaica's Patent Legislation 1857
 - “ based on United Kingdom Act”
 - Granted by the Governor General of Jamaica - Queens representative in Jamaica.
- ◎ New Patent & Designs Bill under review to go before Parliament



Existing Patent System

- Based on the United Kingdom patent system of its time.
- The Act speaks of Local Novelty.

Petition

- To the Governor General
- Asking Permission

Declaration

- The Statement of the "true and first inventor"
- Your invention is useful

Specification

- Layout of the invention
- The same as Patents all around the world

Definition of a Patent 1857

- “invention”, “discovery” and “improvement” respectively shall mean any manner of new manufacture or new mode of manufacture the subject of Letters Patent and grant of privilege within the meaning of the United Kingdom Act



1812



1813-32



1870-73



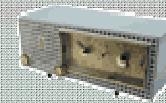
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1805



1822



1932



1930

New Definition

- "invention" means an idea which permits in practice the solution to a specific problem in the field of technology;



The New Patent Act

Conditions for patentability.

New, involves an Inventive Step

Industrial Application

- Section 4 of the New Patent Act
- TRIPS (Article 27) and WTO Compliant
- The Proposed Patent Act does make allowances for Patents in the service of the Crown.

The New Patent Act (Section 4)

Restrictions to Patent

Plants, varieties of plants
Animals

- Contrary to public order or morality

DNA, cells,

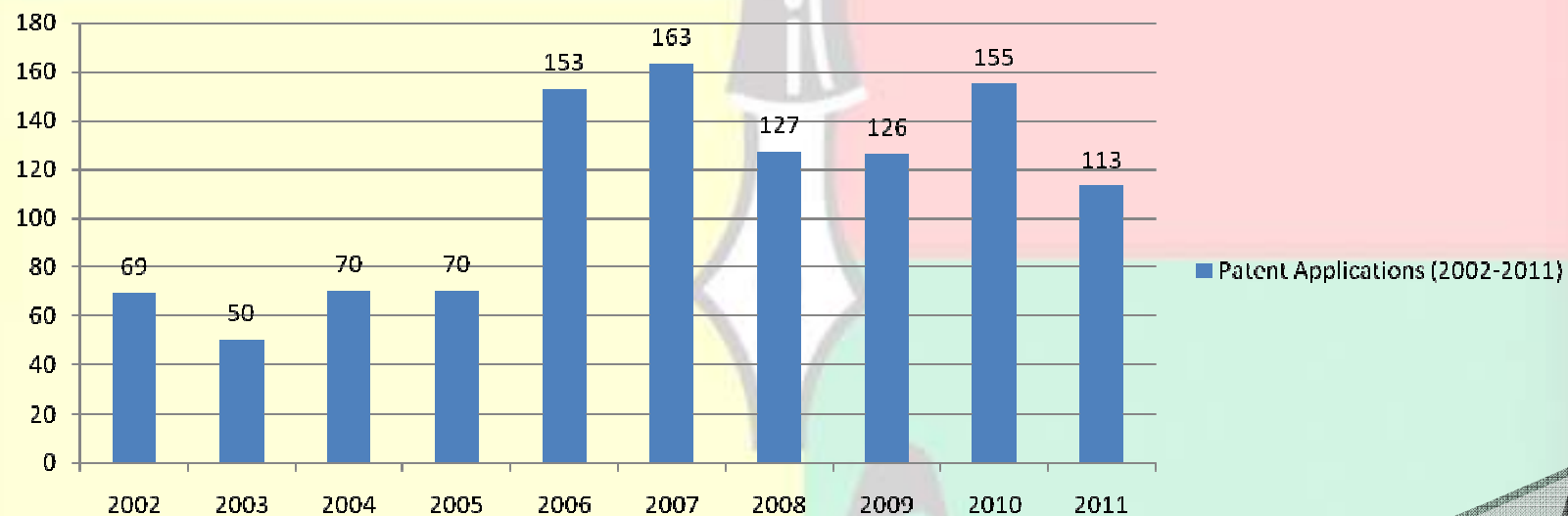
- Seed varieties and species other than microorganisms

Biological processes
for the production of
plants or animals

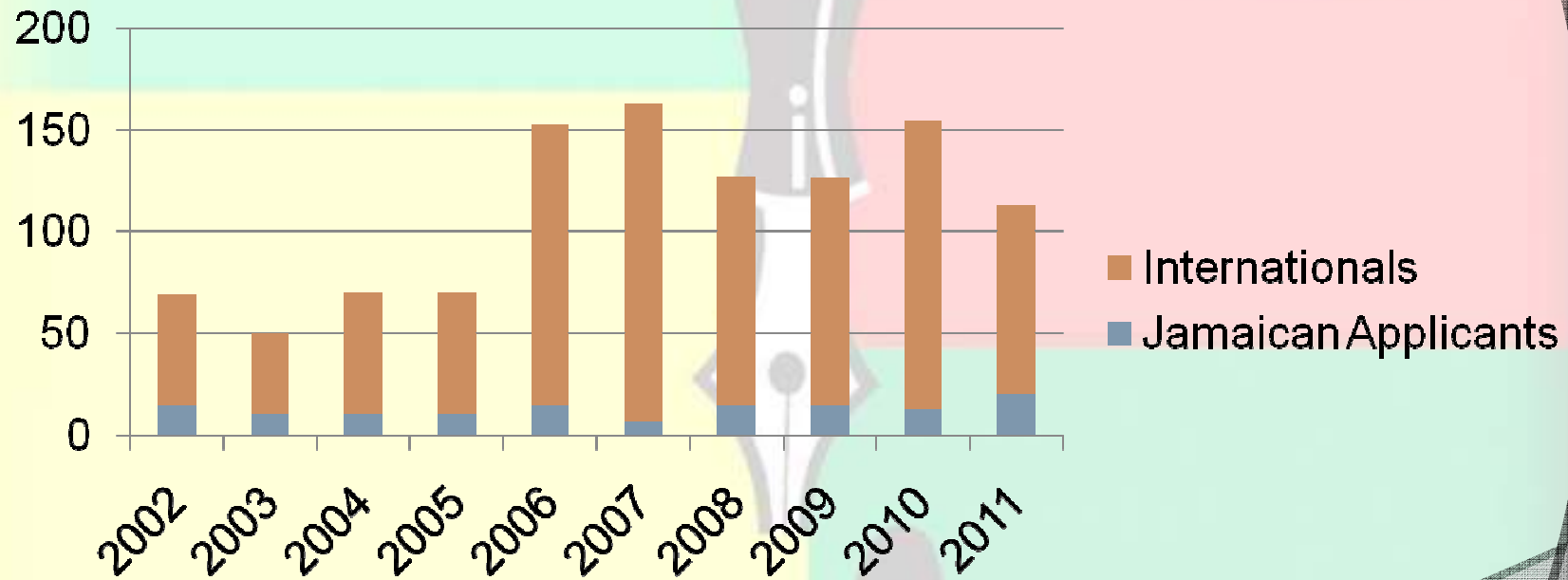
Background of Jamaica's Patent System

Statistics

Patent Applications (2002-2011)



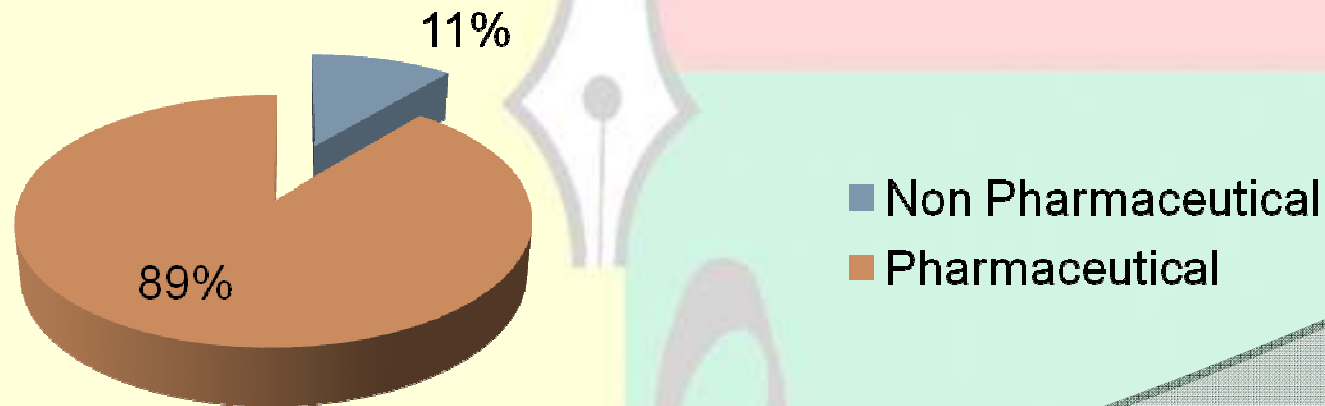
Jamaican vs. Non-Residents



The Jamaican Experience

- More than 95% of all applications filed in Jamaica are for Pharmaceuticals

Patent applications filed 2001-2011



Chronic Illness in Jamaica

◎ Jamaicans are affected by Basic Chronic Non Communicable diseases

- **Hypertension**
- **Diabetes**
- **Cancer**



Case of Salt of Amlodipine

- Pfizer Limited (reputedly the world's largest pharmaceutical company)

vs.

- Medimpex Jamaica Limited and Lasco Distributors. two local generic drug providers



Case of Salt of Amlodipine

- This patent was granted by the Governor General of Jamaica in 2002,
- Attorney Robinson of the Law Firm Myers Fletcher & Gordon was assigned the Patent for the protection of the invention
- "Salts of Amlodipine / Amlodipine Besylate".

Case of Salt of Amlodipine

- Pfizer Limited manufactures, sells and distributes "Norvasc" in Jamaica
- Pfizer Limited filed an action in the court in 2005 against Medimpex Jamaica Limited, NMF Pharmaceuticals Limited and Lasco Distributors Limited for infringement of Letters Patent No. 3247

Case of Salt of Amlodipine

- Medimpex imported, sold and distributed into Jamaica "Normodipine" which contains Amlodipine Besylate
- Lasco Distributors imported, sold and distributed "Las Amlodipine" which also contains Amlodipine Besylate
- There is no dispute that neither Medimpex nor Lasco Distributors has a licence or any form of permission from Pfizer Limited to deal in Salts of Amlodipine/Amlodipine Besylate

The Key Component of the Case

⦿ Prior Expired Overseas Patent

- Section 29 of the Patent Act allows an applicant for a Patent in Jamaica to simultaneously have an unexpired patent for the same invention abroad
 - Amlodipine Besylate filed in Egypt on March 31, 1987. expired on March 31, 1997

Decision of the Case

- Court refused the applications for Declarations and Order Permanent Injunction and other orders sought by Pfizer Limited
- Damages ordered against Pfizer suffered by Medimpex Limited and Lasco Distributors as a result of the injunction granted to Pfizer Limited

Jamaica's Existing Patent Law

- The case Shows that:
 - The system works
- Protects against Double Patenting.
- Offers similar protection to that of other jurisdictions.
- Could Allow for Flexibilities should the need arise.

Thank You for your Attention

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