



# Effective Utilization of Patent Cooperation Treaty (PCT) and International Work Sharing Initiatives

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# Presentation Outline

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- **Current Status of Myanmar IP System**
- **Current Status of Patent Law**
- **Draft Patent Law**
- **Future registration System**
- **Conclusion**

# Current Status of Myanmar IP System

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- **Drafting state**
  - **Patent Law**
  - **Trademark**
  - **Industrial design**
  - **Copyright**

**(taking the legislative advice from WIPO)**

# Current Status of Patent Law

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- **Drafting state**
  - **Chapter : 20**
  - **Section : 97**

# Draft Patent Law

<b>Chapter</b>	<b>Title</b>
<b>I</b>	<b>Commencement and Definition</b>
<b>II</b>	<b>Objectives</b>
<b>III</b>	<b>Functions and Duties of the Responsible Ministry</b>
<b>IV</b>	<b>Functions and Duties of Registrar and Examiners</b>
<b>V</b>	<b>Patents</b>
<b>VI</b>	<b>Persons Entitled to a Patent</b>
<b>VII</b>	<b>Grant of Patent</b>
<b>VIII</b>	<b>Deferment of Publication of Patent Application</b>
<b>IX</b>	<b>Right of Priority and Temporary Protection</b>
<b>X</b>	<b>Term of the Patent and Fees</b>

# Draft Patent Law (cont')

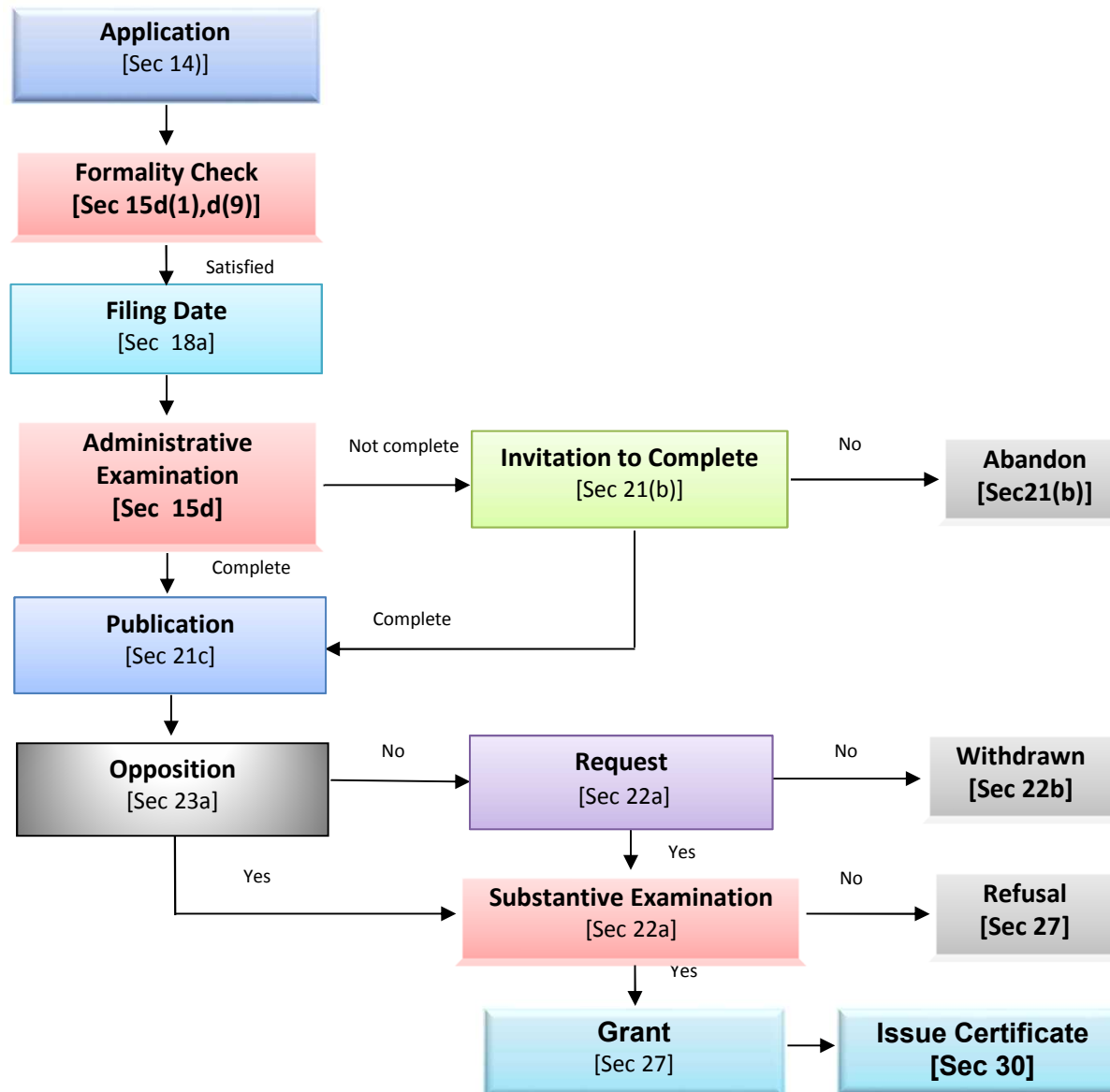
<b>Chapter</b>	<b>Title</b>
<b>XI</b>	<b>Patent Rights</b>
<b>XII</b>	<b>Transfer of the Rights of Patent</b>
<b>XIII</b>	<b>License of the Patent</b>
<b>XIV</b>	<b>Issuing the Compulsory License</b>
<b>XV</b>	<b>Surrender and Revocation of Patent</b>
<b>XVI</b>	<b>Utility Model</b>
<b>XVII</b>	<b>Appeal</b>
<b>XVIII</b>	<b>Civil Proceedings before the Intellectual Property Court in Case of Patent Infringements</b>
<b>XIX</b>	<b>Offences and Penalties</b>
<b>XX</b>	<b>Miscellaneous</b>

# Future Registration System

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- **Application**
- **Minimum Requirements**
- **Filing Date**
- **Administrative Examination**
- **Publication**
- **Opposition**
- **Request for examination**
- **Substantive Examination**
- **Grant/ Refusal**
- **Issue Certificate**

# Registration Procedures





# Application

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- **Any person who is legally entitled under sections 10, 11, 12 and 13 desires to obtain a patent right, he shall file a patent application to the Intellectual Property Office of Myanmar in accordance with this law and the implementing regulations.**
- **No applications**
- **No foreign applications**
- **No Patent Examiners**
  - **currently 6 members in Patent Section**

# Minimum Requirements

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- **Copy of the receipt of payment of the prescribed fees**
- **A request for grant of a patent**
- **Name, nationality and address of the applicant/inventor**
- **Address and name of the State in which the applicant has a real and effective industrial or commercial establishment a description of the invention**
- **Any other elements prescribed in the regulations**

# Filing Date

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- **The Registrar shall accord as the filing date the date of receipt of the application, provided that, at the time of receipt, the application contains all of the minimum requirements.**

# Administrative Examination

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- After having the invention classified according to the International Classification, the registrar shall examine whether the application complies with formality requirements. Sec-21(a)
- Sec-15 mentions that the applicant shall mention the points expressed in the minimum requirements in the patent application. If necessary, the relevant supporting documents shall be attached.
- Use external examination results from other offices (Section 20)
- May summon and examine the witnesses and call for the documents (Section 6-c)

# Publication

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- **Application Publication**
- **Request for Examination Publication**
- **Granting or Refusing Publication**
- **Lapse Publication**
- **Transfer Publication**
- **License Publication**
- **Surrender Publication**
- **Revoke Publication**

# Opposition

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- **Within three months from the publication of the notice mentioned in section 21(c), any interested party, provided prescribed fees are paid, may file with the Registrar a notice of opposition.**
- **The notice of opposition shall identify the opposed patent application, as well as the grounds that the opponent deems relevant to bar the grant as well as all relevant evidence.**
- **The failure to meet the formal or substantive conditions of patentability as established in section 7, 8, 9, 15(d)(9), 16 and 17(b) can be alleged by the opponent.**

# Request for Examination

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- **Within 36 (thirty six) months from the filing date, the patent applicant shall request the Registrar that the patent application be examined as to its compliance with the conditions under section 7, 8, 9, 16 and 17.**
- **The request shall be accompanied by payment of the prescribed fee and the translation into English of documents listed in section 15(d)(7), (9) and (17).**
- **The Registrar shall publish in the Official Gazette the request for examination.**
- **If the request is not submitted within the prescribed term, the application shall be deemed abandoned.**

# Grant/ Refusal

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- **grant the patent if he found out after examination that fulfilled conditions contained in section 22(a) or to refuse it otherwise**
- **record such grant or refusal of the patent and inform the applicant.**



# Substantive Examination

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In compliance with the conditions under section 7, 8, 9, 16 and 17.

- Patentability
- Exclusions
- Description requirements
- Claim requirements
- Clear identification of the origin of genetic or biological resources

We intend to use WIPO databases and ideas for better support through WIPO.

We have many challenges in every stage as we are **beginner level.**

# Issue Certificate

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- **The Registrar shall, where patent is granted, issue a patent certificate to the applicant and publish it at the official gazette. (Section-30)**

# Conclusion

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- ✓ **To set up an appropriate legal IPRs system**
- ✓ **To promote technical innovation and foreign investment**
- ✓ **To transfer and disseminate of technology as well as for boosting industrial development**

**May be potential to be a member of PCT**



**THANK YOU**

26.11.2013

Ministry of Science and Technology, Myanmar