

Questionnaire on Exceptions and Limitations to Patent Rights

The answers to this questionnaire have been provided on behalf of:

Country: *Republic of Belarus*
Office: *National Center of Intellectual Property*

Person to be contacted:

Name: *Artur Dmitriyevich Akhramenko*
Title: *Senior Specialist, International Cooperation Division*
E-mail: *icd@belgospatent.by*
Telephone: *+375 17 285 35 66*
Facsimile: *+375 17 285 26 05*

Section I: General

This section is intended to obtain general information on exceptions and limitations to patent rights that are provided under the applicable laws. For the purpose of this questionnaire, the term “applicable law” refers to relevant national and regional statutory law and, where applicable, case law.

The terms used in the questionnaire are drafted in a general way aiming at providing a broad understanding of each concept used, assuming that the exact wording of these exceptions and limitations might differ under the applicable laws. More detailed explanations of the various exceptions and limitations may be found in the following documents: SCP/13/3, SCP/15/3 and CDIP/5/4.

1. As background for the exceptions and limitations to patents investigated in this questionnaire, what is the legal standard used to determine whether an invention is patentable? If the standard for patentability includes provisions that vary according to the technology involved, please include examples of how the standard has been interpreted, if available. Please indicate the source of law (statutory and-or case law) by providing the relevant provisions and/or a brief summary of the relevant decisions.

Pursuant to Article 1000(2) of the Civil Code of the Republic of Belarus and Article 2(1), part 1, of the Republic of Belarus Law of December 16, 2002, on Patents for Inventions, Utility Models, and Industrial Designs (referred to hereinafter as the Law), an invention in any area of technology is granted legal protection if it involves a product or process, it is novel, it has an inventive step, and it is industrially applicable.

An invention is novel if it does not form part of the prior art.

An invention has an inventive step if it is not obvious to a person skilled in the art.

Prior art includes any information that has been made available to the public anywhere in the world before the priority date of the invention. In the determination of novelty of an invention, prior art also includes all patent applications for an invention and utility model filed by other persons in the Republic of Belarus, which have not been withdrawn, provided that they have earlier priority, as well as inventions and utility models patented in the Republic of Belarus.

An invention is industrially applicable if it can be used in industry, agriculture, health care, and other sectors (Article 2(1), parts 3 through 6, of the Law).

Correspondingly, please list exclusions from patentability that exist in your law. Furthermore, please provide the source of those exclusions from patentability if different from the source of the standard of patentability, and provide any available case law or interpretive decisions specific to the exclusions.¹

¹ This question does not imply that the topic of exclusions from patentability is dealt with in this question exhaustively.

Pursuant to Article 2(2) and (3) of the Law, the following are not considered to be inventions: discoveries, as well as scientific theories and mathematical methods;

designs that concern only the external appearance of a product and that are intended to satisfy aesthetic requirements;

plans, rules, and methods for intellectual activity, playing games, or doing business, as well as algorithms and computer programs;

the simple presentation of information.

These objects and activities are not considered inventions under the Law only in the event that a patent application for an invention (referred to hereinafter as a patent) concerns just these objects and activities as such.

The Law does not provide legal protection as an invention for:

varieties of plants and breeds of animals;

layout designs of integrated microcircuits.

Pursuant to the Law, inventions that are contrary to the public interest and humanitarian and moral principles are not patentable.

2. As background for the exceptions and limitations to patents investigated in this questionnaire, what exclusive rights are granted with a patent? Please provide the relevant provision in the statutory or case law. In addition, if publication of a patent application accords exclusive rights to the patent applicant, what are those rights?

Pursuant to Article 1001(1) of the Civil Code of the Republic of Belarus and Article 2(1) and (2) of the Law, a patentee has the exclusive right to use a patented invention.

The exclusive right to use an invention includes the right to use the invention at one's own discretion, unless doing so violates the rights of other persons, and it also includes the right to prohibit the use of the invention by other persons.

The exclusive right to use a patented invention that constitutes a process for obtaining a product is also extended to the product that is obtained directly by this process. A new product is considered to have been obtained by a patented process until proven otherwise.

Pursuant to Article 22(1) and (2) of the Law, from the date of publication of information about an application for an invention up to the date of publication of information about a patent, a claimed invention is granted temporary legal protection covering the formulation of the invention as published.

An individual or a legal entity using a claimed invention during the period that its temporary legal protection is in effect pays monetary compensation to the patentee after a patent has been obtained. The amount and procedure for payment of such compensation are determined by agreement between the parties, and in the event of a dispute, through legal proceedings.

3. Which exceptions and limitations does the applicable law provide in respect to patent rights (please indicate the applicable exceptions/limitations):

- Private and/or non-commercial use;*
- Experimental use and/or scientific research;*
- Preparation of medicines;²*
- Prior use;*
- Use of articles on foreign vessels, aircrafts and land vehicles;*
- Acts for obtaining regulatory approval from authorities;*
- Exhaustion of patent rights;*
- Compulsory licensing and/or government use;*

² For example, extemporaneous preparation of prescribed medicines in pharmacies.

- Exceptions and limitations related to farmers' and/or breeders' use of patented inventions.³

If the applicable law provides for any of the above-listed exceptions and limitations, please fill out those parts of Sections II to X that apply to you. If the applicable law does not contain all of the exceptions and limitations provided in Sections II to X, then you should respond only to the other parts of the questionnaire. If the applicable law includes other exceptions and limitations that are not listed above, please answer the questions under Section XI "Other Exceptions".

Where reference is made to case law, please indicate, if possible, the official source in which the case has been published (for example, the publication number, issue, title, URL, etc.).

Section II: Private and/or non-commercial use

4. If the exception is contained in statutory law, please provide the relevant provision(s):
Pursuant to Article 10, paragraph 5, of the Law, the private, non-commercial use of items in which patented inventions are used is not considered a violation of a patentee's exclusive right.
5. If the exception is provided through case law, please cite the relevant decision(s) and provide its(their) brief summary:
Case law is not a source of law in the Republic of Belarus.
6. (a) What are the public policy objectives for providing the exception?
Achievement of a reasonable balance between the interests of the patentee and society.
(b) Where possible, please explain with references to the legislative history, parliamentary debates and judicial decisions:
The exception was established in Article 6, paragraph 7, of the Republic of Belarus Law of February 5, 1993, on Patents for Inventions (referred to hereinafter as the Law of February 5, 1993), and later in Article 7(4) of the Republic of Belarus Law of July 8, 1997, on Patents for Inventions and Utility Models (referred to hereinafter as the Law of July 8, 1997).
7. If the applicable law defines the concepts "non-commercial", "commercial" and/or "private", please provide those definitions by citing legal provision(s) and/or decision(s):
Not defined in the law.
8. If there are any other criteria provided in the applicable law to be applied in determining the scope of the exception, please provide those criteria by citing legal provision(s) and/or decision(s):
None.
9. Is the applicable legal framework of the exception considered adequate to meet the objectives sought (for example, are there any amendments to the law foreseen)? Please explain:
It is considered to be adequate. No amendments are foreseen.
10. Which challenges, if any, have been encountered in relation to the practical implementation of the exception in your country? Please explain:
No information available.

³ For example, in some countries where patent rights extend to propagated or multiplied material derived from patented biological material, certain uses by farmers of harvested plant material or of breeding livestock or other animal reproductive material under patent protection on his own farm do not constitute patent infringement. Similarly, in some countries, patent rights do not cover uses by breeders of patented biological material for the purpose of developing a new plant variety (see paragraphs 133 to 137 of document SCP/13/3).

Section III: Experimental use and/or scientific research⁴

11. If the exception is contained in statutory law, please provide the relevant provision(s):

Pursuant to Article 10, paragraph 3, of the Law, the performance of scientific research on or experimental use of an item in which a patented invention is used is not considered a violation of a patentee's exclusive right.

12. If the exception is provided through case law, please cite the relevant decision(s) and provide its(their) brief summary:

See response to question 5.

13. (a) What are the public policy objectives for providing the exception?

Achievement of a reasonable balance between the interests of the patentee and society. Ensuring the ability to perform scientific research or experiments.

Development of science.

(b) Where possible, please explain with references to the legislative history, parliamentary debates and judicial decisions:

The exception was established in Article 6, paragraph 5, of the Law of February 5, 1993, and later in Article 7(4) of the Law of July 8, 1997.

14. Does the applicable law make a distinction concerning the nature of the organization conducting the experimentation or research (for example, whether the organization is commercial or a not-for-profit entity)? Please explain:

No distinction is made in the law.

15. If the applicable law defines the concepts "experimental use" and/or "scientific research", please provide those definitions by citing legal provision(s) and/or decision(s):

No definitions are contained in the law.

16...If the purpose of experimentation and/or research is relevant to the determination of the scope of the exception, please indicate what that purpose is:

Experimentation and/or research should aim to:

- determine how the patented invention works
- determine the scope of the patented invention
- determine the validity of the claims
- seek an improvement to the patented invention
- invent around the patented invention
- other, please specify: the laws of the Republic of Belarus do not specify the purpose of scientific research or experimentation.*

17. If any of the following criteria is relevant to the determination of the scope of the exception, please indicate:

- Research and/or experimentation must be conducted on or relating to the patented invention ("research on")*
- Research and/or experimentation must be conducted with or using the patented invention ("research with")*
- Both of the above*

Please explain by citing legal provision(s) and/or decision(s):

⁴ Exceptions and limitations on acts for obtaining regulatory approval are dealt with in Section VII of the questionnaire.

See response to question 11.

18. If the commercial intention of the experimentation and/or research is relevant to the determination of the scope of the exception, please indicate whether the exception covers activities relating to:

- A non-commercial purpose
- A commercial purpose
- Both of the above
- The commercial intention of the experimentation and/or research is not relevant

The laws of the Republic of Belarus do not specify the purpose of scientific research or experimentation (commercial or non-commercial).

19. If the applicable law makes a distinction between “commercial” and “non-commercial” purpose, please explain those terms by providing their definitions, and, if appropriate, examples. Please cite legal provision(s) and/or decision(s):

No distinction is made in the law.

20. If the applicable law provides for other criteria to be applied in determining the scope of the exception, please describe those criteria. Please illustrate your answer by citing legal provision(s) and/or decision(s):

No criteria are provided for in the law.

21. Is the applicable legal framework of the exception considered adequate to meet the objectives sought (for example, are there any amendments to the law foreseen)? Please explain:

It is considered to be adequate. No amendments are foreseen.

22. Which challenges, if any, have been encountered in relation to the practical implementation of the exception in your country? Please explain:

No information available.

Section IV: Preparation of medicines

23. If the exception is contained in statutory law, please provide the relevant provision(s):

Pursuant to Article 10, paragraph 6, of the Law, the extemporaneous preparation of prescribed medicines in pharmacies using a patented invention is not considered a violation of a patentee's exclusive right.

24. If the exception is provided through case law, please cite the relevant decision(s) and provide its(their) brief summary:

See response to question 5.

25. (a) What are the public policy objectives for providing the exception? Please explain:

Achievement of a reasonable balance between the interests of the patentee and society. Safeguarding public health.

(b) Where possible, please explain with references to the legislative history, parliamentary debates and judicial decisions:

The exception was established in Article 6, paragraph 6, of the Law of February 5, 1993, and later in Article 7(5) of the Law of July 8, 1997.

26. Who is entitled to use the exception (for example, pharmacists, doctors, physicians, others)? Please describe:

The laws of the Republic of Belarus do not specify the persons who are entitled to use this exception.

27. Does the applicable law provide for any limitations on the amount of medicines that can be prepared under the exception?

- Yes
- No

If yes, please explain your answer by citing the relevant provision(s) and/or decision(s):

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28. If the applicable law provides for other criteria to be applied in determining the scope of the exception, please describe those criteria. Please illustrate your answer by citing legal provision(s) and/or decision(s):

None.

29. Is the applicable legal framework of the exception considered adequate to meet the objectives sought (for example, are there any amendments to the law foreseen)? Please explain:

It is considered to be adequate. No amendments are foreseen.

30. Which challenges, if any, have been encountered in relation to the practical implementation of the exception in your country? Please explain:

No information available.

Section V: Prior use

31. If the exception is contained in statutory law, please provide the relevant provision(s):

Pursuant to Article 39 of the Law, any individual or legal entity who before the priority date of a patented invention, and independently of its author, created and used in good faith an identical design within the Republic of Belarus, or made the preparations necessary to do so (referred to hereinafter as a prior user), retains the right to its further use free of charge without expanding the scope of such use (the right of prior use).

The right of prior use may be assigned to another individual or legal entity only together with the enterprise at which the use of the identical design took place or the preparations necessary to do so were made.

32. If the exception is provided through case law, please cite the relevant decision(s) and provide its(their) brief summary:

See response to question 5.

33. (a) What are the public policy objectives for providing the exception? Please explain:

Protection of the results of parallel creative activity by other persons, if these results arose before the priority date of a patented invention.

(b) Where possible, please explain with references to the legislative history, parliamentary debates and judicial decisions:

The exception was established in Article 7 of the Law of February 5, 1993, and later in Article 8 of the Law of July 8, 1997.

34. How does the applicable law define the scope of "use"? Does the applicable law provide for any quantitative or qualitative limitations on the application of the "use" by prior user? Please explain your answer by citing legal provision(s) and/or decision(s):

Pursuant to Article 36(1) of the Law, use of an invention is understood to mean the introduction into civil circulation of a product manufactured using a patented invention, as well as a process protected by a patent. A product is considered to be manufactured using a patented invention and a process protected by a patent is considered to be applied if each feature of an invention included in an independent part of a formula or an equivalent feature is used in it.

A prior user retains the right to the further use of a patented invention free of charge without expanding the scope of such use (Article 39(1) of the Law).

35. Does the applicable law provide for a remuneration to be paid to the patentee for the exercise of the exception? Please explain:

No. Pursuant to Article 39(1) of the Law, a prior user retains the right to the further use of a patented invention free of charge.

36. According to the applicable law, can a prior user license or assign his prior user's right to a third party?
- Yes. Pursuant to Article 39(2) of the Law, the right of prior use may be assigned to another individual or legal entity.
- No

37. In case of affirmative answer to question 36, does the applicable law establish conditions on such licensing or assignment for the continued application of the prior use exception?
- Yes
- No

If yes, please explain what those conditions are:

The right of prior use may be assigned only together with the enterprise at which the use of the identical design took place or the preparations necessary to do so were made (Article 39(2) of the Law).

38. Does this exception apply in situations where a third party has been using the patented invention or has made serious preparations for such use after the invalidation or refusal of the patent, but before the restoration or grant of the patent?
- Yes
- No

If yes, please explain the conditions under which such use can continue to apply:

Pursuant to Article 35(2) of the Law, any individual or legal entity who from the moment a patent for an invention expires up until the time that it is restored has used an identical design or made the preparations necessary to do so within the Republic of Belarus, retains the right to its further use free of charge without expanding the scope of such use (the right of subsequent use).

39. If the applicable law provides for other criteria to be applied in determining the scope of the exception, please describe those criteria. Please illustrate your answer by citing legal provision(s) and/or decision(s):
- No criteria are provided for in the law.*

40. Is the applicable legal framework of the exception considered adequate to meet the objectives sought (for example, are there any amendments to the law foreseen)? Please explain:
- It is considered to be adequate. No amendments are foreseen.*

41. Which challenges, if any, have been encountered in relation to the practical implementation of the exception in your country? Please explain:
- No information available.*

Section VI: Use of articles on foreign vessels, aircrafts and land vehicles

42. If the exception is contained in statutory law, please provide the relevant provision(s):
- Pursuant to Article 10, paragraph 2, of the Law, the use of a device incorporating patented inventions in the construction or operation of transportation means (marine or river vessels, aircraft, land vehicles, and spacecraft) of other countries, provided that said means are located temporarily or accidentally within the territory of the Republic of Belarus and the device is used for the needs of the respective transportation means, is not considered a violation of a patentee's exclusive right. Such an act is not considered a violation of a patentee's exclusive right if the transportation means belong to citizens or legal entities of countries that grant the same rights to citizens and legal entities of the Republic of Belarus.*
43. If the exception is provided through case law, please cite the relevant decision(s) and provide its(their) brief summary:
- See response to question 5.*
44. (a) What are the public policy objectives for providing the exception? Please explain:

Preventing a violation of the rights of third parties.

Achieving a balance between the rights of the patentee and the owner of the transportation means.

(b) Where possible, please explain with references to the legislative history, parliamentary debates and judicial decisions:

The exception was established in Article 6, paragraphs 2 through 4, of the Law of February 5, 1993 (which reproduced Article 5^{ter} of the Paris Convention for the Protection of Industrial Property, adopted in Paris on March 20, 1883), and later in Article 7(1) of the Law of July 8, 1997 (the same as the current version).

45. The exception applies in relation to:

- Vessels
- Aircrafts
- Land Vehicles
- Spacecraft

46. In determining the scope of the exception, does the applicable law apply such terms as "temporarily" and/or "accidentally" or any other equivalent term in relation to the entry of foreign transportation means into the national territory? Please provide the definitions of those terms by citing legal provision(s) and/or decision(s):

Yes – see response to question 42. The Republic of Belarus law on patents for inventions does not contain definitions of the terms "temporarily" and "accidentally," however.

47. Does the applicable law provide for any restrictions on the use of the patented product on the body of the foreign vessels, aircrafts, land vehicles and spacecraft for the exception to apply (for example, the devices to be used exclusively for the needs of the vessel, aircraft, land vehicle and/or spacecraft)? Please explain your answer by citing legal provision(s) and/or decision(s):

Yes. Pursuant to Article 10, paragraph 2, of the Law, devices incorporating patented inventions are used for the needs of the respective transportation means.

48. If the applicable law provides for other criteria to be applied in determining the scope of the exception, please describe those criteria. Please illustrate your answer by citing legal provision(s) and/or decision(s):

There are other criteria. Pursuant to Article 10, paragraph 2, of the Law, the exception is applied if the transportation means belong to citizens or legal entities of countries that grant the same rights to citizens and legal entities of the Republic of Belarus.

49. Is the applicable legal framework of the exception considered adequate to meet the objectives sought (for example, are there any amendments to the law foreseen)? Please explain:

It is considered to be adequate. No amendments are foreseen.

50. Which challenges, if any, have been encountered in relation to the practical implementation of the exception in your country? Please explain:

No information available.

Section VIII: Exhaustion of patent rights

60. Please indicate what type of exhaustion doctrine is applicable in your country in relation to patents:

- National
- Regional
- International
- Uncertain, please explain

If the exception is contained in statutory law, please provide the relevant provision(s):

Pursuant to Article 10, paragraph 7, of the Law, the use, offer for sale, sale, importation, or storage for such purposes of a product containing a patented invention and introduced into civil circulation in the Republic of Belarus without violation of the patentee's rights is not considered a violation of a patentee's exclusive right.

If the exception is provided through case law, please cite the relevant decision(s) and provide its(their) brief summary:

See response to question 5.

61. (a) What are the public policy objectives for adopting the exhaustion regime specified above? Please explain:

Achieving a balance between the rights of the patentee and those of third parties who are the legal owners of material objects that incorporate patented designs.

Ensuring the normal turnover of goods.

(b) Where possible, please explain with references to the legislative history, parliamentary debates and judicial decisions:

The exception was established in Article 6, paragraph 8, of the Law of February 5, 1993, and later in Article 7(8) of the Law of July 8, 1997.

62. Does the applicable law permit the patentee to introduce restrictions on importation or other distribution of the patented product by means of express notice on the product that can override the exhaustion doctrine adopted in the country?

- Yes
- No
- Uncertain

Please explain your answer by citing legal provision(s) and/or decision(s):

Article 10, paragraph 7, of the Law does not contain a stipulation regarding the possibility of not applying a restriction.

63. Has the applicable exhaustion regime been considered adequate to meet the public policy objectives in your country? Please explain:

Yes.

64. Which challenges, if any, have been encountered in relation to the practical implementation of the applicable exhaustion regime in your country? Please explain:

No information available.

Section IX: Compulsory licenses and/or government use

Compulsory licenses

65. If the exception is contained in statutory law, please provide the relevant provision(s):

Pursuant to Article 38 of the Law, in the event of non-working or insufficient working of an invention by a patentee within five years of the date of publication of information about a patent, any person who wishes and is ready to use a patented invention, should the patentee decline to conclude a licensing agreement, may petition a court to grant him a compulsory non-exclusive license. Unless the patentee proves that there were valid reasons for the non-working or insufficient working of the invention, the court grants said license and defines the limits of its use, as well as the amount, deadlines, and procedure for payments.

66. If the exception is provided through case law, please cite the relevant decision(s) and provide its(their) brief summary:

See response to question 5.

67. What grounds for the grant of a compulsory license does the applicable law provide in respect to patents (please indicate the applicable grounds):

- Non-working or insufficient working of the patented invention*
- Refusal to grant licenses on reasonable terms*
- Anti-competitive practices and/or unfair competition*
- Public health*

- National security
- National emergency and/or extreme urgency
- Dependent patents
- Other, please specify:

68. (a) What are the public policy objectives for providing compulsory licenses in your country? Please explain:

Introduction into civil circulation of a product manufactured using a patented invention, as well as a process protected by a patent.

Limiting abuses on the part of a patentee, as well as consideration of the interests of third parties.

69. If the applicable law provides for the grant of compulsory licenses on the ground of “non-working” or “insufficient working”, please provide the definitions of those terms by citing legal provision(s) and/or decision(s):

The Republic of Belarus law on patents for inventions does not contain definitions of the terms “non-working” or “insufficient working.”

70. Does the importation of a patented product or a product manufactured by a patented process constitute “working” of the patent? Please explain your answer by citing legal provision(s) and/or decision(s):

Pursuant to Article 36(1) of the Law, the introduction into civil circulation of a product manufactured using a patented invention, as well as a process protected by a patent, is considered to be the working of a patent. The importation of such a product constitutes its introduction into civil circulation (Article 9, paragraph 2, of the Law), and consequently it constitutes the working of an invention.

71. In case of the grant of compulsory licenses on the grounds of non-working or insufficient working, does the applicable law provide for a certain time period to be respected before a compulsory license can be requested?

- Yes
- No

If yes, what is the time period? *Within five years of the date of publication of information about a patent (Article 38 of the Law).*

72. In case of the grant of compulsory licenses on the grounds of non-working or insufficient working, does the applicable law provide that a compulsory license shall be refused if the patentee justifies his inaction by legitimate reasons?

- Yes
- No

If yes, what are “legitimate reasons”?

If the patentee proves in court that there were valid reasons for the non-working or insufficient working of an invention, utility model, or industrial design (Article 38 of the Law).

73. If the applicable law provides for the grant of compulsory licenses on the ground of refusal by the patentee to grant licenses on “reasonable terms and conditions” and within a “reasonable period of time”, please provide the definitions given to those terms by citing legal provision(s) and/or decision(s):

The Republic of Belarus law on patents for inventions does not contain definitions of the terms “reasonable period of time” or “reasonable terms and conditions.”

74. If the applicable law provides for the grant of compulsory licenses on the ground of anti-competitive practices, please indicate which anti-competitive practices relating to patents may lead to the grant of compulsory licenses by citing legal provision(s) and/or decision(s):

Republic of Belarus law does not provide for the grant of compulsory licenses on the ground of monopolistic (anti-competitive) practices.

75. If the applicable law provides for the grant of compulsory licenses on the ground of dependent patents, please indicate the conditions that dependent patents must meet for a compulsory license to be granted:

Republic of Belarus law does not provide for the grant of compulsory licenses on the ground of dependent patents.

76. Does the applicable law provide a general policy to be followed in relation to the remuneration to be paid by the beneficiary of the compulsory license to the patentee? Please explain:

Article 38 of the Law states that the procedure for payments related to a compulsory license is to be determined by the court.

77. If the applicable law provides for the grant of compulsory licenses on the ground of “national emergency” or “circumstances of extreme urgency”, please explain how the applicable law defines those two concepts and their scope of application, and provide examples:

The Republic of Belarus law on patents for inventions does not contain definitions of the terms “national emergency” or “circumstances of extreme urgency.”

78. Please indicate how many times and in which technological areas compulsory licenses have been issued in your country:

No information available.

79. Is the applicable legal framework for the issuance of compulsory licenses considered adequate to meet the objectives sought (for example, are there any amendments to the law foreseen)? Please explain:

It is considered to be adequate.

80. Which challenges, if any, have been encountered in relation to the use of the compulsory licensing system provisions in your country? Please explain:

No information available.

Government use

81. If the exception is contained in statutory law, please provide the relevant provision(s):

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82. If the exception is provided through case law, please cite the relevant decision(s) and provide its(their) brief summary:

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83. What grounds for the grant of government use does the applicable law provide in respect to patents (please indicate the applicable grounds):

- Non-working or insufficient working of the patented invention
- Refusal to grant licenses on reasonable terms
- Anti-competitive practices and/or unfair competition
- Public health
- National security
- National emergency and/or extreme urgency
- Dependent patents
- Other, please specify:

84. (a) What are the public policy objectives for providing government use in your country?

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(b) Where possible, please explain with references to the legislative history, parliamentary debates and judicial decisions:

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85. If the applicable law provides for the grant of government use on the ground of “national emergency” or “circumstances of extreme urgency”, please explain how the applicable law defines those two concepts and their scope of application, and provide examples:

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86. Please indicate how many times and in which technological areas government use has been issued in your country:

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87. Is the applicable legal framework for the issuance of government use considered adequate to meet the objectives sought (for example, are there any amendments to the law foreseen)? Please explain:

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88. Which challenges, if any, have been encountered in relation to the use of the government use mechanism in your country? Please explain:

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Section X: Exceptions and limitations related to farmers’ and/or breeders’ use of patented inventions

Farmers’ use of patented inventions

89. If the exception is contained in statutory law, please provide the relevant provision(s):

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90. If the exception is provided through case law, please cite the relevant decision(s) and provide a brief summary of such decision(s):

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91. (a) What are the public policy objectives for providing the exception related to farmers’ use of patented inventions? Please explain:

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(b) Where possible, please explain with references to the legislative history, parliamentary debates and judicial decisions:

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92. Please explain the scope of the exception by citing legal provision(s) and/or decision(s) (for example, interpretation(s) of statutory provision(s) on activities allowed by users of the exception, limitations on their use, as well as other criteria, if any, applied in the determination of the scope of the exception):

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93. Is the applicable legal framework of the exception considered adequate to meet the objectives sought (for example, are there any amendments to the law foreseen)? Please explain:

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94. Which challenges, if any, have been encountered in relation to the practical implementation of the exception related to farmers' use of patented inventions in your country? Please explain:

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Breeders' use of patented inventions

95. If the exception is contained in statutory law, please provide the relevant provision(s):

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96. If the exception is provided through case law, please cite the relevant decision(s) and provide a brief summary of such decision(s):

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97. (a) What are the public policy objectives for providing the exception related to breeders' use of patented inventions? Please explain:

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(b) Where possible, please explain with references to the legislative history, parliamentary debates and judicial decisions:

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98. Please explain the scope of the exception by citing legal provision(s) and/or decision(s) (for example, interpretation(s) of statutory provision(s) on activities allowed by users of the exception, limitations on their use, as well as other criteria, if any, applied in the determination of the scope of the exception):

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99. Is the applicable legal framework of the exception considered adequate to meet the objectives sought (for example, are there any amendments to the law foreseen)? Please explain:

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100. Which challenges, if any, have been encountered in relation to the practical implementation of the exception related to breeders' use of patented inventions in your country? Please explain:

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Section XI: Other Exceptions and Limitations

101. Please list any other exceptions and limitations that your applicable patent law provides:

Article 10, paragraph 4, of the Law provides for the use of products containing patented inventions, utility models, and industrial designs in the event of extraordinary and unavoidable circumstances (force majeure), with subsequent payment of appropriate compensation to the patentee.

102. In relation to each exception and limitation, please indicate:

(i) the source of law (statutory law and/or the case law) by providing the relevant provision(s) and/or a brief summary of the relevant decision(s):

This exception is specified under Article 10, paragraph 4, of the Law.

(ii) the public policy objectives of each exception and limitation. Where possible, please explain with references to the legislative history, parliamentary debates and judicial decisions:

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(iii) the entitlement and the scope of the exception and limitation by citing legal provision(s) and/or decision(s):

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In addition, in relation to each exception and limitation, please explain:

(i) whether its applicable legal framework is considered adequate to meet the objectives sought (for example, are there any amendments to the law foreseen?):

The given legal framework is adequate to address the issue.

(ii) if there have been any challenges encountered in the practical implementation of the exception in your country:

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103. If other mechanisms for the limitation of patent rights external to the patent system exist in your country (for example, competition law), please list and explain such mechanisms:

Republic of Belarus law does not contain other mechanisms for the limitation of patent rights besides those contained in the Law.

[End of Questionnaire]