

The National Center of Intellectual Property Belarus

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Section 1: General

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.

According to Art. 2 of the Law of the Republic of Belarus of December, 16, 2002 "On Patents for Inventions, Utility Models and Industrial Designs" requirements for granting legal protection to the invention are formulated as follows.

The invention in any sphere of technology is granted the legal protection, if it is referred to the product or process being new, has invention step and industrial application.

The "product" is the subject as the result of the human work, the "means"—the process, way or method of carrying out the inter-connected actions at the object(s) and also the application of the process, way, method or product for the certain purpose.

The "product" means the subject as a result of human labor, "process" - is a method, way or means for performing interrelated actions over the object (s), as well as the application of process, method, way or product for a particular purpose.

The conditions for patentability are defined in the same article. The invention is new, if it is not part of prior art. Prior art includes any information that became available in the world before the priority date of the invention. While establishing the novelty of the invention prior art also includes all filed by others in the Republic of Belarus not withdrawn applications for invention patents and utility model patents and patented in the Republic of Belarus inventions and utility models on condition of their earlier priority.

The invention involves an inventive step if it does not obviously follow for the specialist from the prior art.

The invention is industrially applicable, if it can be used in the industry, agriculture, healthcare and other spheres of activity.

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.

Exclusions from patentability (nonproprietary objects) under the Law of the Republic of Belarus are divided into three groups. The first group - those objects that are not regarded as inventions. Second – are protected under the laws of objects, but not protected as inventions. The third group consists of the inventions, which, although they may meet the conditions of patentability, but not recognized as patentable under the law because of their negative characteristics, namely contrary to public interest, principles of humanity and morality.

Not regarded as inventions: discoveries and also the scientific theories and mathematic methods; solutions concerning solely the outward appearances of manufactured articles and intended to satisfy aesthetic requirements; plans, rules and methods of intellectual activity, rules of the games or methods of implementation of business activities and also algorithms and programs for electronic computers; ordinary presentation of information. The subject matter or activities referred to above shall not be recognized as inventions under this Law only to the extent to which an application for a patent for invention relates to such subject matter or activities as such. Not provided with legal protection as an invention: plant varieties and breeds of animals; layout-design (topography) of integrated circuits. Consideration of an application for patenting objects for classification in the above objects is carried out during the patent examination. Therefore interpretive decisions are not available.

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?

According to §§ 1 and 2 of Art. 1 of the Law the exclusive right to an invention is certified by patent. In accordance with Art. 8 the patent-owner has the exclusive right to use the patented invention.

The exclusive right to use the invention includes the right of the patent-owner to use the invention at his own discretion, insofar as such use does not infringe the rights of other persons, and also in the right to prohibit other persons from using the invention.

The exclusive right to use the patented invention which is a process for obtaining a product shall also extend to the product directly obtained through such process. In the absence of proof to the contrary, a new product shall be deemed to have been obtained through the patented process.

Law does not contain other provisions disclosing the content of the exclusive right. At the same time Art.9 specifies actions that are the infringements of the exclusive right. In accordance with the doctrine these actions on the positive side are considered as determining what constitutes "use" of the invention. Thus, the use can be carried out by committing the following actions:

- the manufacture, use, importation, offering for sale, sale or any other form of marketing or storage for that purpose of a product or an article incorporating the patented invention, utility model or industrial design, and also the performance of the said acts in relation to a device in the operation or exploitation of which a patented process is employed in accordance with the purpose claimed;

– the use of a process protected by an invention patent or marketing or storage for that purpose of a product directly obtained by a process protected by an invention patent.

Publication of a patent application doesn't accord exclusive rights to the patent applicant. From the date of the publication of a patent application the provisional legal protection is granted.

According to the Art. 22 claimed invention, as from the date of publication of the application particulars and up to the date of publication of the particulars of the patent grant, enjoy provisional legal protection within the limits of the published claim.

Any natural or legal person who uses the claimed invention during the period of provisional legal protection pays out compensation to the owner of the patent after the grant thereof. The amount of the compensation and the procedure for paying thereof shall be determined by agreement between the parties and in case of dispute - by court.

If the application is withdrawn or is deemed to have been withdrawn or if a final decision refusing the grant of a patent is taken, the provisional legal protection shall be deemed never to have existed (unaccrued).

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;

Prior use;

Use of articles on foreign vessels, aircrafts and land vehicles;

Exhaustion of patent rights;

Compulsory licensing and/or government use.

Section 2: Private and/or non-commercial use

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

Art. 10 (part 5): not constitute an infringement of the exclusive right of the patent-owner the using of devices in which the inventions protected by the patent are used for personal purposes without making a profit.

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

[Note from the Secretariat: response was not provided]

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

The objective of the public policy is to balance the interests of the patentee and society. In this case, the interests of individuals who use device comprising the invention, is to achieve personal purposes.

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

In the Act of July 8, 1997 " On Patents for Inventions and Utility Models " in Article 7 , and in the Act of February 5, 1993 " On patents for Invention" in Art. 6 it is stated that using of devices containing patented inventions privately without commercial purposes won't be considered as infringement of the exclusive right. Thus, legislator maintains this exception throughout the history of modern Belarusian legislation on patents, which means indisputability of its existence and its importance.

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):

The concept of "personal purposes without making a profit" is not defined in the applicable law. Civil Code of the Republic of Belarus in the art. 1 provides a definition of "entrepreneurship", one sign of which is the systematic profit-making. In accordance with Art. 127 Special Part of the Tax Code of the Republic of Belarus profit from the sale of goods (works, services), property rights (except for fixed assets, intangible assets) is defined a positive margin between the sales proceeds from the sale reduced by the amounts of taxes and fees paid from the proceeds, and costs for the production and sale of goods (works, services), property rights accounted for taxation.

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 not adequate. But no amendments to the law are foreseen. The improvement of the legal framework is possible in the direction of clarification of actions of person who uses patented invention.

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

Challenges that have been encountered are the identification and proof of facts like using of means, which contain a patented invention, and that the actions are performed for personal purposes. The law does not define words "use of means, in which the patented inventions are used". It is followed by different meanings of person actions.

Section 3: Experimental use and/or scientific research

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

In accordance with the § 3 Art. 10 of the Law not recognized as the infringement of the exclusive right use of devices incorporating a patented invention for the purposes of scientific research or experimentation.

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

[Note from the Secretariat: response was not provided]

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

The public policy objectives are the following. The monopolistic exclusive right of the patent-owner shouldn't be used in the way to harm the scientific and technical progress of the country. Since the research or experiment with the means in which a patented invention used can be an application or other way of usage of the invention, the absence of such restrictions will cause additional difficulties for entities engaged in progressive research. Necessity to receive consent of the patent-owner and to pay the remuneration can completely eliminate the scientific experiments in selected areas. Prosecution for patent infringement of scientists is unreasonable from the point of view of constitutional principles.

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

The Act of 1997 and Act of 1993 contained the following rule: not recognized as an infringement of the exclusive right carrying out of the scientific research or experiment on meanings containing the invention protected by the patent.

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:

Applicable law does not specify the nature of the organization, which carries out the scientific research or experiment. Literal interpretation suggests that any organization can use the exception.

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):

The law does not define what "scientific research" or "experiment". In accordance with Art. 1 of the Act of January 19, 1993 "On the fundamentals of science and technology policy" research (research and development) - creative activity aimed at obtaining new knowledge and methods of their application. Scientific research can be fundamental and applied.

According to the Law of the Republic of Belarus of 21 October 1996 "On scientific activities" the fundamental research is theoretical and (or) experimental studies aimed at obtaining new knowledge about the basic laws of nature, man, society and artificial objects. Fundamental research can be oriented, that is aimed at the solution of scientific problems related to practical applications. Applied research is research which is aimed at applying the results of fundamental research to achieve specific practical purposes (Art. 1).

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:

[Note from the Secretariat: response was not provided]

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")

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

[Note from the Secretariat: response was not provided]

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

The commercial intention of the experimentation and/or research is not relevant

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):

Applicable law does not distinguish between commercial and non-commercial purposes in respect of the exclusion.

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):

There are no other criteria.

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:

No amendments to the law are foreseen.

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

Challenges which have been encountered are the follows: is it right to implement the exception if experimental use and/or scientific research is performed with commercial purpose.

Section 4: Preparation of medicines

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

The following shall not be considered infringements of the exclusive right of the owner of the patent - the once-only preparation of a medicine, incorporating a patented invention on prescription in a pharmacy (§ 6 Art. 10).

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

[Note from the Secretariat: response was not provided]

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

Public policy objective for providing this exception is a concern for the nation's health and protection of the rights of individual citizens to accessible medicines. There is no infringement of the interests of the patent owner, because systematic or industrial production of medicines is not allowed.

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

There were no amendments.

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

Exception is taken into account only if the medicine is manufactured in the pharmacy. Thus, the subject of the application is a pharmacist - a person who has the right to manufacture medicines.

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

Yes

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

Permitted only "one-time" manufacturing of medicines once, moreover, the amount can be limited to medical prescription.

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):

An additional criterion is the presence of medical prescription as the basis for the manufacture of drugs in the pharmacy.

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:

No amendments to the law are foreseen.

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

[Note from the Secretariat: response was not provided]

Section 5: Prior use

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

Any natural or legal person who, before the priority date of a patented invention, and independently of the author, has devised and used in good faith on the territory of the Republic of Belarus a solution that is the same as the patented invention or has made the necessary preparations for such use, shall maintain the right to continue using that solution free of charge, provided that the scope of the use is not extended (right of prior user).

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

[Note from the Secretariat: response was not provided]

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

In the field of technical creativity there are objective cases of creation of the identical inventions by various persons independently. Entity has the right to choose the legal patent protection or simply use its development without obtaining a patent. Each of these entities behave in good faith and are entitled to the protection of their interests by the state. The public policy objective for providing the exception is protection of the interests of the person who without obtaining a patent uses or prepare to use its decision, identical to the patented by another person. Since the former behaved in good faith, and his pursuit by the patentee for patent infringement may be assessed as patent misuse and deviation from the principle of justice, granting the right of prior use excludes civil liability of entity.

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

The procedure for providing this limitation has not changed in these latter days.

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):

The scope of “use” isn’t defined. It can be interpreted the same way as in the paragraph 2 of the Questionnaire. The applicable law doesn’t provide any quantitative or qualitative limitations on the application of the “use” by prior user. The latter has the right to continue using solution provided that the scope of the use is not extended.

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

The law clearly points to free use of the decision by prior user.

36. According to the applicable law, can a prior user license or assign his prior user’s right to a third party?

Yes

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

If yes, please explain what those conditions are:

The right of prior user may only be transferred to another natural or legal person together with the production unit in which use of the identical solution has taken place or in which the necessary preparations for use were made.

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

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

Art. 35 (2). Any natural or legal person who, during the period between the date on which the invention patent has lapsed and the date of its restoration in accordance with paragraph (1) of this Article, has used an identical solution on the territory of the Republic of Belarus or has made the necessary preparations for such use, shall maintain the right to continue using that solution free of charge, provided that the scope of the use is not extended (right of subsequent user).

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):

[Note from the Secretariat: response was not provided]

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:

There are no amendments to the law foreseen. However, the legal structure appears insufficient to meet the objectives sought.

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

Practical application of this exception calls some challenges such as definition of the scope in which can use the solution prior user; clarification of the necessary and sufficient actions on the preparation for use of the invention; confirmation of right of prior use by document or otherwise; procedure of transfer this right to another entity.

Section 6: 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):

The following shall not be considered infringement of the exclusive right of the owner of the patent: the use of devices incorporating patented inventions in the construction or operation of means of transport (seagoing or river vessels, aircraft, spacecraft or land vehicles) of other countries when such means of transport temporarily or accidentally enter the territory of the Republic of Belarus, provided that such devices are used there exclusively for the needs of the means of transport.

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

[Note from the Secretariat: response was not provided]

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

The public policy objectives for providing the exception is the protection of public interest in the economically important sphere - transport relations. On the one hand, vehicles are high-tech products, which use a plurality of protected inventions. On the other hand, patent owners blocking opportunities for use of patented inventions in vehicles can result in serious threat to the transport security.

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

[Note from the Secretariat: response was not provided]

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, patent owners blocking opportunities for use of patented inventions in vehicles can result in serious of transport security.

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):

Besides paragraph 46, the devices to be used in the construction or operation of means of transport exclusively for the needs of the 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):

Such acts shall not be deemed to infringe the exclusive right of the owner of the patent if the means of transport belong to natural or legal persons of countries affording the same rights to natural or legal persons 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:

There are no amendments to the law foreseen.

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

Such challenge can be the interpretation of the words "transportation means of the foreign state".

Section 7: Acts for obtaining regulatory approval from authorities

51.-59.

[Note from the Secretariat: response was not provided]

Section 8: Exhaustion of patent rights

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

National

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

Art. 10 (par. 7): not regarded as the infringement of exclusive right application, offer to sale, sale, import or storage for these purposes of the product containing the invention, protected by the patent introduced to the civil turn-over in the Republic of Belarus without violation of the right of patent-holder.

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

[Note from the Secretariat: response was not provided]

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

The public policy objective is exclusion of unfair repeated remuneration for the use of the same invention.

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

Legal regulation of the exception has not changed fundamentally.

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?

No

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

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

Yes, it has been considered adequate.

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

[Note from the Secretariat: response was not provided]

Section 9: Compulsory licenses and/or government use

Compulsory licenses

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

Where the owner of a patent has failed to use or has insufficiently used an invention within five years following the date from the date of publication of the patent particulars, any person who wishes to use the patented invention and is in a position to do so, but with whom the owner of the patent has refused to conclude a licensing agreement, may apply to the courts for the grant of a non-exclusive compulsory license. (Art. 38).

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

[Note from the Secretariat: response was not provided]

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*

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

The public policy objective is to promote the use of the patented invention, as it is considered necessary from the standpoint of development and the needs of society

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

[Note from the Secretariat: response was not provided]

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):

There are no definitions in the applicable law.

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):

Importation will be considered working of the patent, as it is believed "import" is included in the content of the exclusive right of the patent owner.

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

If yes, what is the time period?

Within five years following the date from the date of publication of the patent particulars

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

If yes, what are “legitimate reasons”?

The court shall grant a compulsory license and shall lay down the limits on the use of the invention, as also the amount, dates and procedure for the payment of royalties, unless the owner of the patent is able to prove that the failure to use or the insufficient use of the invention is justified by legitimate reasons

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):

There are no given definitions.

74.-75.

[Note from the Secretariat: response was not provided]

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:

The law does not specify how the remuneration should be determined. Court grant the indicated license defining the limits of use, size, timing and order of payments

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:

[Note from the Secretariat: response was not provided]

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

We have no practice.

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:

The applicable legal framework for the issuance of compulsory licenses is considered 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:

[Note from the Secretariat: response was not provided]

Government use

81.-88.

[Note from the Secretariat: response was not provided]

Section 10: Exceptions and limitations related to farmers' and/or breeders' use of patented inventions

89.-100.

[Note from the Secretariat: response was not provided]

Section 11: Other Exceptions and Limitations

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

The following shall not be considered infringement of the exclusive right of the owner of the patent:

– the use of devices incorporating patented inventions in the event of exceptional or force-majeure circumstances, provided that the patent owner is subsequently paid equitable compensation (Art. 10).

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):

Law of the Republic of Belarus of December, 16, 2002 "On Patents for Inventions, Utility Models and Industrial Designs"

(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:

This exception is caused by the understanding that in the event of exceptional or force-majeure circumstances public interests public interest take precedence over private ones.

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

There are no provisions on the entitlement or the scope of the exception.

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?):

Yes, it is considered adequate, no amendments are foreseen.

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

Similar situations haven't occurred in practice so it's difficult to point any challenges.

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:

According to paragraph 2 of Art. 16 of the Act of December 12, 2013 (effective from July 1, 2014) "On Counteracting Monopolistic Activities and Promotion of Competition" not allowed unfair competition related to the acquisition and use of the exclusive right of the means of individualization of participants in civil turnover of goods.

[End of Questionnaire]