

Questionnaire on Exceptions and Limitations to Patent Rights

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

Country: PAKISTAN.....
Office: INTELLECTUAL PROPERTY ORGANIZATION, PAKISTAN, CABINET DIVISION, GOVT. OF PAKISTAN

Person to be contacted:

Name: Mr.Inam ul Haq.....
Title: Director (Patents)
E-mail: inam.haq@ipo.gov.pk.....
Telephone: 0092519208545.....
Facsimile: 0092519208157.....

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.

Novelty, Inventive Step and Industrial Applicability, under Section 7 (1) of the Patents Ordinance, 2000 (as amended in 2002) is used to determine the patentability criteria of inventions.

Similar criteria/standard is used for all fields of inventions.....
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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.

Sub-section (2) of Section 7 of the Patents Ordinance, 2000 (as amended in 2002), the following shall not be regarded as invention within the meaning of sub-section (1) of Section 7 of Patents Ordinance, 2000, namely:-

- (a) a discovery, scientific theory or mathematical method;**
- (b) a literary, dramatic, musical or artistic work or any other creation of purely aesthetic character whatsoever;**
- (c) a scheme, rule or method for performing a mental act, playing a game or doing business;**
- (d) the presentation of information; and**
- (e) substances that exist in nature or if isolated therefrom**

Besides, the Section 7 Sub-section 4 of the Patents Ordinance, provides that a Patent shall not be granted:-

- (a) for invention the prevention of commercial exploitation of which would be necessary to protect the "*ordre public*" or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by any law for the time being in force;**
- (b) for plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes;**
- (c) for diagnostic, therapeutic and surgical methods for the treatment of humans or animals;**
- (d) for a new or subsequent use of a known product or process; and**
- (e) for a mere change in physical appearance of a chemical product where the chemical formula or process of manufacture remains the same provided that this clause shall not apply to an invention fulfilling the criteria of patentability.**

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?

Section 30 sub-section 1 of the Patents Ordinance, 2000 (as amended in 2002), confer following rights on a holder of Patent:-

- (a) Where the subject matter of Patent is a product, the holder of valid patent may prevent third parties not having the owner's consent from the acts of making, using, offering for sale, selling, or importing for these purposes that product; and**
- (b) where the subject matter of a patent is a process, the holder of a valid patent may prevent third parties not having the owner's consent from the act of using the process, and from the acts of using, offering for sale, selling, or importing for these purposes at least the product obtained directly by that process.**

Section 22 of the Patent Ordinance 2000 clarifies that On the acceptance of a complete specification the Controller of Patents shall publish it in the official Gazette and the applicant shall have the like privileges and rights as if the invention had been sealed on the date of the acceptance of the application.

Provided that the applicant shall not be entitled to institute any proceedings for infringement until the patent has been sealed.

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;
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):

Not available

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

Not available
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6. (a) What are the public policy objectives for providing the exception?

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

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

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).

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):

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):

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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:

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

Section III: Experimental use and/or scientific research ⁴

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

Section 30(5)(c) and (f) of Patents Ordinance 2000 (as amended in 2002).....
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12. If the exception is provided through case law, please cite the relevant decision(s) and provide its (their) brief summary:

...not available.....
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13. (a) What are the public policy objectives for providing the exception?

Promote creativity, encourage improvement & scientific development

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

In compliance of obligations as a member of WTO, Pakistan brought the IP Laws in consonance with the TRIPS and Patent & Designs Act, 1911 was substituted by Patents Ordinance, 2000, containing exceptions qua non-commercial use. [Ordinance No.LXI of 2000, promulgated under Article 89 of the Constitution of Islamic Republic of Pakistan, 1973]

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. As a matter of fact acts done for teaching purposes in educational or research institutions are allowed to conduct experimentation or research. Majority of these educational & research institutes are in public sector and a few statutory & non-statutory institutions/organization, which are not-for-profit entities.

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):

Not defined

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

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

- 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:scope of this exception is not defined.....

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):

No-precedent

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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: **not defined**

- A non-commercial purpose
- A commercial purpose
- Both of the above
- 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):

Not defined

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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):

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Not available

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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:

This exception has never been in issue as yet

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

This exception has never been in issue, as yet

Section IV: Preparation of medicines

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

Not available
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24. If the exception is provided through case law, please cite the relevant decision(s) and provide its(their) brief summary:

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25. (a) What are the public policy objectives for providing the exception? 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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26. Who is entitled to use the exception (for example, pharmacists, doctors, physicians, others)? Please describe:

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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):

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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:

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

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Section V: Prior use

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

Section 30(5)(d) of the Patents Ordinance, 2000 (as amended in 2002), per verbatim reproduced as under:-

"acts performed by any person who in good faith, before the filling or, where priority is claimed, the priority date of the application on which the patent is granted in Pakistan, was using the invention or was making effective and serious preparations for such use"

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

Not available

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

To foster creativity, research & technological development

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

Not available

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):

Not defined.....
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35. Does the applicable law provide for a remuneration to be paid to the patentee for the exercise of the exception? Please explain:

No.....
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36. According to the applicable law, can a prior user license or assign his prior user’s right to a third party?

- Yes
- 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
Patent Ordinance, 2000 (amended in 2002) does not solely establish conditions on licensing or assignment of Patent rights by prior user to the third party. However, Under Section 55 (4) of the Patent Ordinance, 2000 mechanism of assignment and transmission of Patent rights is dealt and enforced in like manner as in respect of any other movable property. Similar mechanism may be applied on licensing or assignment of Patent rights by prior user to the third party.

If yes, please explain what those conditions are:

Conditions as such are not defined.....
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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:

If the Patent is ceased to have effect by reason of failure to pay any renewal fee before the expiration of that year and extended period of six months, an application for the restoration may be made to the Controller within eighteen months from the date on which the Patent ceased to have effect. The Controller shall by order restore the patent on payment of any unpaid renewal fee and additional fee. Section 45(5) of the Patents Ordinance, 2000 (as amended in 2002) describes that:

"Where an order is made under this section and, between the end of the period of six months beginning with the date when the patent concerned ceased to have effect and the date of the application under this section, any person has begun in good faith to use the patented invention or has made effective and serious preparations to make use of the invention, he shall, after the order comes into force, have the right to make use of the invention and the said use shall not amount to an infringement of the patent concerned."

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):

Sec 45 (6) of the Patent Ordinance, 2000 amended in 2002 "Where a patented product is disposed of by any person to another in exercise of a right conferred by Sec 45 sub-section (5), that other and any other person claiming through him shall be entitled to deal with the product in the same way as if it had been disposed of by a sole registered proprietor.

According to the Rule 25 (9) of the Patent Rules, 2003 "In every order of the Controller restoring a patent the following provision shall be inserted for the protection of persons who have begun to avail themselves of the patented invention between the date when the patent ceased to have effect and the date of the application,-

No action or other proceeding shall be commenced or prosecuted nor any damage recovered in respect of any manufacture, use or sale of the patented product in the interim period as herein after defined by any person to have effect, the _____, who after such date and before the _____, the date of the application has made, used, exercised or sold the patented product or has manufactured or installed any plant, machinery or apparatus claimed in the specification of the patent or for carrying out a method or process so claimed."

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:

The Courts or the Administrative Authorities have not come across where the exception under reference has been invoked by any party, therefore, exception is presumed to be adequate however, amendments could be made in exigency.

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

No precedent

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):

Section 30 (5) (b) of the Patents Ordinance, 2000 (as amended in 2002)

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

Not available

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

To meet the obligation under the TRIPS.

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

The Patent & Designs Act, 1911 (repealed) was substituted by Patents Ordinance, 2000, containing exceptions qua non-commercial use through Presidential Ordinance i.e. [Ordinance No.LXI of 2000, promulgated under Article 89 of the Constitution of Islamic Republic of Pakistan, 1973]

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):

Section 30(5)(b) of Patents Ordinance, 2000 (as amended in 2002) contained specific term "temporarily" and/or "accidentally", however, these terms have not been defined in the applicable law.

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):

NO

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):

Never invoked

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:

Presumed to be adequate

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

Exception never invoked

Section VII: Acts for obtaining regulatory approval from authorities

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

Section 30(5)(e) of the Patents Ordinance, 2000,

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

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Not available.....
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53. (a) What are the public policy objectives for providing the exception? Please explain:

Primary objective is to speed up the commercialization of a generic product after the expiry of Patent, foster creativity and to provide quality & less expensive products through the local manufacturing units, aiming at to help the masses in general & industrial development in particular.

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

Not available.....
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54. Who is entitled to use the exception? Please explain:

Any person

55. The exception covers the regulatory approval of:

- any products
- certain products. Please describe which products:

56. Please indicate which acts are allowed in relation to the patented invention under the exception?

- Making
- Using
- Selling
- Offering for sale
- Import
- Export
- Other. Please specify:.....

57. 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):

Not provided

58. 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:

Presumed to be adequate

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

Exception never invoked

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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

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

Section 30(5)(a) of Patents Ordinance, 2000 (as amended in 2002) states that "acts in respect of articles which have been put on the market anywhere in the world by the owner of the patent or with his consent or by an authorized person or in any other legitimate manner such as compulsory licenses"

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

Not available

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

WTO TRIPS compliance

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

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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):

The Patented products relating to medicine supplied to Government agencies have been allowed to contain express notice of restriction i.e. "Not for sale"

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

Presumed to be 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:

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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):

Section 58 & 59 of the Patents Ordinance, 2000 (as amended in 2002)
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66. If the exception is provided through case law, please cite the relevant decision(s) and provide its(their) brief summary:

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Not available.....
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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: ...**where patent has not been exploited in a manner which contributes to the promotion of technological innovation and to the transfer and dissemination of technology,**.....

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

To curb monopolization & cartelization and to safeguard the national interest

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

Not available

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):

Not defined

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):

Not defined in statute or by precedents

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? **After expiration of a period of four years from the date of filing of the patent application or three years from the date of the grant of the patent, whichever period expires last.**

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”?

Section 59 (2) of the Patent Ordinance 2000 (amended in 2002) states that “A non-voluntary license shall not be issued if the owner of the patent satisfies the Controller that circumstances exist which justify the no exploitation or insufficient exploitation of the patented invention in Pakistan.”

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 determination of what constitutes “reasonable terms and conditions and reasonable period of time” is to be made by the Federal Govt of Pakistan.....

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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):

It is the prerogative of Federal Govt and Judicial body to determine what constitutes anti-competitive practices.....

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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:

Section 59 (5) of the Patent Ordinance 2000 (amended in 2002), clearly stipulates that the invention claimed in the later patent involves an important technical advance of considerable economic importance in relation to the invention claimed in the earlier patent, the Controller, upon the request of the owner of the later patent, may issue a non-voluntary license to the extent necessary to avoid infringement of the earlier patent.

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:

Patents holder is entitled to adequate remuneration commensurating to inventions economic value, under Section 58(3)-of the Patents Ordinance, 2000 (as amended in 2002)

Rule 44(1) of Patent Rules, 2003 states that “For the purpose of this Ordinance the patentee shall be entitled to a payment up to three percent remuneration by the licensee, on the basis of total sales of that chemical product taking into consideration its trade price, under clause (iii) of sub-section (3) of section 59.

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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:

Federal Government is the authority to determine the grounds for national emergency or circumstances of extreme emergency.

78. Please indicate how many times and in which technological areas compulsory licenses have been issued in your country: **Not a single time compulsory license has been issued in our country.**

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:

Presumed 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 precedent.....

Government use

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

Section 58 & 59 of the Patents Ordinance, 2000 (as amended in 2002)

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

No case law as yet

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: ...**where patent has not been exploited in a manner which contributes to the promotion of technological innovation and to the transfer and dissemination of technology**,.....

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

Inter alia, To protect the public interest in particular national security, nutrition, health or the development of other vital sectors of the national economy

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

Not available.....

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:

Not defined

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

Not a single example exist

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:

Presumed to be Adequate

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

No precedent.....

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):

Not available

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:

**Clause (iv) sub section (1) Section 58 of Patent Ordinance 2000 states
where patent has not been exploited in a manner which contributes to the
promotion of technological innovation and to the transfer and dissemination of
technology,.....**

.....
.....

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):

Not available.....
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.....

- (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:

Not available.....
.....

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

Not available.....
.....

.....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?):

Presumed to be adequate.....
.....

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

None.....
.....

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:

The competition Commission of Pakistan has the responsibility to ensure free competition in all spheres of commercial and economic activity and endeavoring to prevent or eliminate anti competitive behavior in order to promote economic efficiency and to protect the rights of the general public.

As far as the anti competitive practices in patent is concerned, if one undertaking execute any agreement/contract, license agreement for granting its patent rights to other undertaking and such agreement/contract/license agreement contains any anti competitive clauses then they have to seek exemption from the Commission under Section 5 of the Competition Act, 2010 read with General Enforcement Regulations, 2007.

But in case if some one deceptively uses the patents of the other undertaking just for obtaining the good reputation of that company and shows that the products which he/she is going to sale is the product of that company, then the commission will take action against that company under Section 10 of the Competition Act, 2010......
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