I. A Draft Reference Document on the Exception Regarding Farmers' and/or Breeders' Use of Patented Inventions

Law on the protection of inventions No.50-XVI ***(adopted on March 7, 2008, applicable from October 4, 2008***

Article 23. Exhaustion of Rights

(1) The rights conferred by a patent shall not extend to acts concerning the patented product insofar as such acts are performed on the territory of the Republic of Moldova, after that product has been so put on the market in the Republic of Moldova by the patent owner or with his express consent.

(2) The protection referred to in Article 24 paragraphs (5) - (7) shall not extend to biological material obtained by propagation or multiplication of a biological material put on the market or offered for sale on the territory of the Republic of Moldova by the patent owner or with his consent, when the multiplication or propagation necessarily results from the use for which the biological material has been so put on the market, provided that the material obtained is not subsequently used for other propagation or multiplication.

(3) By way of derogation from Article 24 paragraphs (5) – (7), the sale or other form of commercialization of the plant propagating material to a farmer by the owner of the patent or with his consent for agricultural use implies authorization for the farmer to use the product of his harvest for propagation or multiplication by him on his own farm.

(4) By way of derogation from Article 24 paragraphs (5) – (7), the sale or other form of commercialization of breeding stock or other animal reproductive material to a farmer by the owner of the patent or with his consent implies authorization for the farmer to use the protected livestock for an agricultural purpose, with the exception of breeding holdings; this includes making the animal or other animal reproductive material available for the purposes of pursuing his agricultural activity.

Article 24. Extent of Protection

(1) The extent of the protection conferred by a patent or a patent application shall be determined by the terms of the claims. The description and drawings shall be used to interpret the claims.

(2) For the period up to grant of the patent for invention, the extent of the protection conferred by a patent application shall be determined by the claims contained in the application as published under Article 49.

(3) The patent as granted or as amended in opposition, limitation or revocation proceedings shall determine retroactively the protection conferred by the patent application, in so far as such protection is not thereby extended.

(4) The protection conferred by a patent on a process which is the subject-matter of the patent shall extend to any product directly obtained by the patented process.

(5) The protection conferred by a patent on a biological material possessing specific characteristics as a result of the invention shall extend to any biological material derived from that

biological material through propagation or multiplication in an identical or divergent form and possessing those same characteristics.

(6) The protection conferred by a patent on a process that enables a biological material to be produced possessing specific characteristics as a result of the invention shall extend to the biological material directly obtained by that process and to any other biological material derived from the biological material obtained directly through propagation or multiplication in an identical or divergent form and possessing those same characteristics.

(7) The protection conferred by a patent on a product containing or consisting of genetic information shall extend to any other material in which the product is incorporated and in which the genetic information is contained and performs its function, except for the human body, in different formation and development stages, and to the elements thereof.

II. Study on Substantive and Procedural Requirements Regarding Voluntary Division of Patent Applications by Applicants.

Law on the protection of inventions No.50-XVI ***(adopted on March 7, 2008, applicable from October 4, 2008;***

Article 35. Unity of Invention

(1) A patent application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept.

(2) If the patent application as filed does not meet the requirement referred to in paragraph (1) above, the applicant may divide it, on his own initiative or at the request of the AGEPI, by filing a divisional application, prior to a decision on the patent application.

(3) The divisional application may be filed only for the elements which do not go beyond the disclosure of the initial application as filed.

(4) The divisional applications complying with the requirements of paragraph (3) shall be deemed filed on the filing date of the initial application and shall benefit from its priority rights.

(5) The procedure of application of the provisions of paragraph (2), the special requirements to be fulfilled by the divisional application and the term of payment of the fees are provided for in the Regulations.

Regulation on the procedure of filing and examination of the patent application and grant of patent, ***(approved by the Government Decision of the Republic of Moldova No. 528 of September 1, 2009)***

Section 10 Unity of Invention

235. Where a group of inventions is claimed in a patent application, the requirement of unity of invention under Article 35 of the Law shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features.

The expression “special technical features” shall mean those features which define a contribution which each of the claimed inventions considered as a whole makes over the prior art.

236. The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim.

237. Where a patent application relates to a group of inventions, the unity of invention shall be observed if any one of the following conditions has been met: a) the group of inventions contributes to the solution of the same problem; b) the group of inventions determines the obtaining of the same effects; c) there is an interrelationship between the inventions; d) at least one invention of the group cannot be realized or applied without the others; e) absence of at least one invention of the group makes any of the other inventions of the group inapplicable.

238. In a patent application relating to a group of inventions may be included: a) independent claims in different categories; b) independent claims in the same category; c) dependent claims.

239. In a patent application relating to a group of inventions shall be admissible independent claims, in different categories, grouped particularly into one of the following possibilities: a) an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of the said product, and an independent claim for a use of the said product; b) an independent claim for a given process and an independent claim for a means specifically designed for carrying out the said process; c) an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of the said product, and an independent claim for a means specifically designed for carrying out the said process.

240. An application may contain more than one independent claim in the same category (product, process, apparatus or use) only if the subject-matter of the application involves one of the following: a) a plurality of interrelated products; b) different uses of a product or apparatus; c) alternative solutions to a particular problem, where it is inappropriate to cover these alternatives by a single claim.
241. Where AGEPI reveals that the application does not meet the requirement of unity of invention, it shall notify such fact to the applicant and shall invite him within three months from the date of dispatch of the notification: a) to communicate which invention should be examined and, where necessary, to introduce clarity into the application documents, upon payment of the fee prescribed pursuant to Government Decision No. 774 of August 13, 1997, for making amendments, or b) to divide up the application into two or more applications, so that each divisional application may not extend beyond the limits of the invention disclosed in the initial application.

242. If the applicant fails to communicate within the time limit laid down in Rule 241 of the present Regulations which invention (or unitary group of inventions) should be examined and fails to present the corrected materials, the first claimed invention (or the first unitary group of inventions) shall be examined.

243. Where, prior to the issuance of a decision on the first filing, the applicant fails to file divisional applications, the inventions which do not comply with the requirement of unity of invention shall remain in the description, provided that they do not form the subject-matter of the claims.

244. Filing of a divisional application if the initial application has been refused, withdrawn or is deemed to be withdrawn shall not be possible.

245. Lack of unity of invention may not be a ground for refusal of an application or may not be claimed within the actions for revocation or cancellation of a patent for invention.

III. Document updating Sections V and VI of Annex to document SCP/35/7 (Artificial Intelligence (AI) and Inventorship).

- Section V: National/Regional Legal Frameworks Regarding the Concept of Inventorship

Law on the protection of inventions No.50-XVI ***(adopted on March 7, 2008, applicable from October 4, 2008;***

Article 14. Right to a Patent

(1) The right to a patent shall belong to the inventor or his successor in title.

(2) If two or more persons have made an invention independently of each other, the right to a patent shall belong to the person whose patent application has the earliest date of filing, provided that this first application has been published in accordance with Article 49.

Article 17. Right of the Inventor

(1) The natural person whose creative work has led to the invention shall be deemed the inventor (author of the invention).

(2) The right to authorship of an invention shall constitute an inalienable, indefeasible personal right and shall enjoy protection without limitation in time.

(3) Where an invention results from the work of more than one person, each such person shall be deemed a joint inventor and the right to authorship of the invention of the inventor shall belong to each of them.

(4) A natural person who has furnished to the inventor technical, logistic or material assistance in the creation of the invention or who has simply given help in preparing the patent application, in obtaining the patent or in exploiting and using the invention shall not be deemed an inventor.

(5) The inventor shall have the right to be mentioned as such in the patent application, in the patent and in the AGEPI publications in respect of the application or the patent.

(6) The inventor shall have the right to renounce the mention of his name in the patent application, in the patent and in the AGEPI publications in respect of the application or the patent, by filing a written request with the AGEPI.

- Section VI: The “DABUS” Case. The inputs may also include information regarding new cases and decisions on AI as an inventor.

Patent applications in which artificial intelligence is indicated as the inventor have not been filed

IV. Compilation of legislative and policy measures adopted by Member States relating to Standard Essential Patents to be presented on a dedicated page of the SCP website

There are no cases regarding procedures regarding essential standard patents in the Republic of Moldova.