

## *Questionnaire on Exceptions and Limitations to Patent Rights*

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

Country: Kyrgyz Republic.....  
Office: State Service of Intellectual Property and Innovation under the Government of the Kyrgyz Republic .....

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### *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.

*In accordance with part 1 of Clause 5 of the Kyrgyz Republic Legislation «Patent law» (hereinafter referred to as – Patent Law of the KR) patentability standard of the invention is a novelty, innovative activity and industrial feasibility.*

*An invention is a new, if it is unknown in the technical level.*

*The invention involves an inventive level if it is definitely not followed from the technical level for the specialist in this field.*

*The level of technology includes any information becoming generally accessible in the world till the priority date of invention. In establishing the novelty of an invention in information on technical level as well as included withdrawn applications of other persons, applied to the Kyrgyzpatent, with earliest priority and patented inventions and utility models in the Kyrgyz Republic.*

*The invention is industrially applicable, if it can be used in industry, agriculture, healthcare and other branches of the national economy (parts 2-6 of the clause 5 Patent Law of the KR).*

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.<sup>1</sup>

*According to the Patent Law of the KR due to the part 9 of the clause 5 is not recognized as inventions:*

- 1) disclosure;*
- 2) scientific theories and mathematical methods;*
- 3) methods of organization and management of the economy;*
- 4) conventions, schedules, rules;*
- 5) rules and methods of performing mental operations, games;*
- 6) software for computing machine as such;*
- 7) conclusions consisting only in providing informations;*
- 8) designs and drawings plan of facilities, buildings and territories;*
- 9) conclusions related only exterior of fabrications, focused on satisfaction of aesthetic demands;*
- 10) integrated circuit topography;*
- 11) plant varieties and breeds of animals;*
- 12) conclusion detrimental to the public interests, principles of humanity and morality, damaging an environment.*

*It is not recognized as a circumstance affecting the patentability of the invention, the presence in its composition of software for computing machine, if they are part of the invention.*

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?

*In accordance with parts 1-2, 5, 8-10 and clause 11 of the Patent Law of the KR the patent owner has the exclusive right for industrial property, protected by the patent, including the right to prohibit for use of these facilities to other persons, except cases when such use in accordance with this Law is not a violation of the exclusive right of the patent owner.*

*The exclusive right to protected industrial property facilities arises from the date of publication of information on issuance of the patent in official bulletin, issued by the Kyrgyzpatent.*

*Usage of the industrial property facilities is a manufacturing, appliance, import, offer to sale, sale, other introduction into the economic turnover or storage a product with this goal, containing invention by the patent, as well as application of the method protected by the patent for invention.*

*Use protected by a patent method is an introduction into the economic turnover or storage of devices with this goal, in functioning and exploitation of which in accordance with its assignments automatically realized by this method.*

*Using protected by a patent method of manufacturing a product shall be also deemed introduction into an economic turnover or storage with this purpose of a product manufactured directly by this method. In such case the new product shall be deemed to be received by patented method in the absence of contrary proof.*

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

*Manufacturing, experimental verification and testing of the prototype product are not recognized by using of the industrial property object.*

*According to the part 3 and 5 of clause 14 of the Patent Law of the KR to the applied invention from publication date of information about application till the publication of information on the issuance of the patent will be provided by temporary legal protection in a volume of published formulas.*

*Physical or legal body, using applied invention within a period of its temporary legal protection, pays to the patent owner, after receiving a patent, monetary compensation. The compensation amount defines by mutual agreement of the Parties.*

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;<sup>2</sup>
- 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.<sup>3</sup>

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):

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<sup>2</sup> For example, extemporaneous preparation of prescribed medicines in pharmacies.

<sup>3</sup> 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).

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

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

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

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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):

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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:

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10. 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 III: Experimental use and/or scientific research <sup>4</sup>**

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

***In accordance with part 2 clause 13 of the Patent Law of the KR is not recognized as an infringement of exclusive right of the patent owner realization of scientific research or experiment on means containing industrial property object.***

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

***The legal system of the Kyrgyz Republic does not apply to the case law.***

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

Following the reasonable balance of interests the patentee and by the society, and supporting the science and technology development.

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

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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:

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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):

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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

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

- determine the validity of the claims
- seek an improvement to the patented invention
- invent around the patented invention
- other, please specify: .....

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):

***According to the part 2 clause 13 of the Patent Law of the KR carrying out the scientific research or experiments on means, containing industrial property object, are not recognized as a violation of exclusive rights of the patent owner.....***

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

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):

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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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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:

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22. 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 IV: Preparation of medicines***

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

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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):

*Any physical or legal person who before the priority date of industrial property subject matter, regardless of its author has created and used on the territory of the Kyrgyz Republic is identical with the object of industrial property or made the required for this preparation retains the right to its further gratuitous use without expansion of volume of such use.*

*The right of prior use may be transferred to a physical or legal person only together with the production, which took place the use of identical solution or made the necessary preparations for this (parts 1-2 of clause 14 of the Patent Law of KR).*

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

*Please see response to the question 12.*

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33. (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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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):

*In accordance with parts 5-6 and 8-9 on clause 11 of the Patent Law of the KR by using of the industrial property object will be recognized manufacturing, application, import, sale offer, sale, other introduction into the economical turnover or storage a product with this purpose, containing invention protected by the patent as well as application the method protected by the patent for invention.*

*The product is recognized as containing an invention protected by the patent, utility models if it contains each characteristic of invention, utility models, given in independent item of formula or equivalently quality, known as analogous in this field of technology from the starting date of use. The method protected by the patent for invention is recognized as used if have been used each quality of invention, given in independent item of formula or equivalent quality, known as analogous in this field of technology to the starting date of use.*

*Using the method protected by the patent is recognized also by introduction into economical turnover or storage facilities with this purpose in operating or exploitation of which in accordance with its assignment automatically realized by this method.*

*By using of the method protected by the patent on receiving the product recognized as well as in introduction into economical turnover or the storage a product with this purpose, manufactured directly by this method. In these cases new product shall be deemed to be received by patented method in the absence of contrary proof.*

*The prior user preserves the right for the further use for free of the industrial property facility without an exceeding the volume such use (part 1 Clause 14 Patent Law of the KR).*

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

*The applicable law does not provide for a remuneration to be paid to the patentee for the exercise of the exception. According to the part 1 clause 14 Patent Law of the KR prior user, keeps the right for further free usage of invention without exceeding the volume of such use.*

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
- No

If yes, please explain what those conditions are:

***In accordance with the part 2 clause 14 of the Patent Law of the KR the right for prior use can be transferred only together with production, where took a place the appliance of integrated solutions or have been done necessity to its preparation. ....***

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:

***Any physical or legal body from the moment of termination of the patent for invention till the date of recovery in accordance with part 1 of this clause, used on the territory of the Kyrgyz Republic identical solution or made the necessary preparations for this, shall retain the right to its further gratuitous use without expansion of volume of such use (right for after 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):

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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:

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41. 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 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):

***According to the part 1 clause 13 Patent Law of the KR is not recognized as an infringement of an exclusive rights of the patent owner appliance of means, containing industrial property objects, protected by the patent in construction or in exploitation of vehicles (vessel,***

*river, aircraft, land craft and spacecraft) of other countries in, so as specified resources temporarily or occasionally are located in the Kyrgyz Republic and uses for needs of transport facilities. Such actions are not recognized as infringement of the exclusive rights of the patent owner, if the transport means are belong to the physical and legal bodies of the country providing the same rights to the transport means owner of the Kyrgyz Republic. ....*

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

*Please see response to the question 12*

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

*On the basis of the legislation of the Kyrgyz Republic and commitments of the KR, in signing international agreements and observance of balance of interests between patent owners and society as a whole.*

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

45. The exception applies in relation to:

- Vessels
- Aircrafts
- Land Vehicles
- Spacecraft

*Part 1 clause 13 of the Patent Law of the KR «Actions, are not recognized as an infringement of exclusive rights of the patent owner»*

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):

*See the answer to the question 42. At the same time, the Patent Law of the Kyrgyz Republic does not contain definitions of terms "temporarily" and incidentally".*

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):

***Applicable. According to part 1 of article 13 of the Patent law of the Kyrgyz Republic of means, the containing objects of industrial property protected by patents in a design or operation of vehicles are used for needs of the vehicle.***

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):

***Existed. According to Part 1 of Article 13 of the Patent Law of the Kyrgyz Republic, an exception applies if the vehicles belong to individuals or legal entities of countries that grant the same rights to the owners of vehicles of the Kyrgyz Republic.***

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:

***Applicable.***

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

***Information is not available.***

***Section VII: Acts for obtaining regulatory approval from authorities***

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

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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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53. (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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54. Who is entitled to use the exception? Please explain:

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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):

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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:

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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:

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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
- Uncertain, please explain.....

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

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

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

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

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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):

***According to Part 1 of Article 12 of the Patent Law of the Kyrgyz Republic, if an object of industrial property is not used or is not sufficiently used by the owner of the patent and persons to whom the rights to it have been transferred, within three years from the date of grant of the patent, which leads to an inadequate supply of relevant goods or services in the market of goods or services, any person who wishes and is ready to use the protected object of industrial property, in case of refusal the owner of the patent from the conclusion with this person of the license contract on the conditions corresponding to the established practice has the right to appeal to court with the claim for providing to him the compulsory license for use of the specified object.***

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

**See the answer to question 12.**

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:

Compliance with the balance when ensuring population protection. Development of science and technology.

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

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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 patent law of the Kyrgyz Republic does not contain definitions of the terms "non-use" and "insufficient use".

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):

***According to Part 5 of Article 11 of the Patent Law of the Kyrgyz Republic, the use of an industrial property subject is the production, use, import, offer for sale, sale, other introduction into economic circulation or storage for this purpose of a product containing patent protected industrial property objects, as well as the use of the protected A patent for an invention.***

***Use of the way protected by the patent also introduction to economic circulation or storage for this purpose of the device admits, during the functioning or exploitation of whom according to his appointment this way is automatically carried out.***

***Use of the way of receiving a product protected by the patent also introduction to economic circulation or storage for this purpose of the product produced in directly this method admits. At the same time the new product is considered in the received patented way in the absence of proofs opposite.***

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 three years from the date of granting a patent.



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 patent owner proves in the court process that the failure to use or insufficient use of the invention is due to valid reasons (Article 12 of the Patent Law of the Kyrgyz Republic).***

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 patent law of the Kyrgyz Republic does not contain definitions of the terms "reasonable conditions" and "reasonable period of time".***

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):

***The legislation of the Kyrgyz Republic does not provide for the issuance of compulsory licenses on the basis of monopolistic (anticompetitive) practice.***

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:

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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:

***According to Part 4 of Article 12 of the Patent Law of the Kyrgyz Republic, the amount of payments should be set not lower than the price of a license determined in accordance with established practice.***

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:

***According to Part 5 of Article 12 of the Patent Law of the Kyrgyz Republic in an emergency (natural disasters, accidents, major accidents, epidemics) and in the interests of national security, the Government of the Kyrgyz Republic has the right to issue a compulsory license paying the owner of the patent a commensurate remuneration.***

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

Compulsory licenses weren't granted.

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:

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

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*Government use*

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

***In emergency circumstances (natural disasters, catastrophes, major accidents, epidemics), and also in the interests of national security (Part 5 of Article 12 of the Patent Law of the Kyrgyz Republic).***

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

***See the answer to question 12.***

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?

***In order to prevent emergencies.***

(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:

**According to the constitutional law of the Kyrgyz Republic "About State of Emergency", state of emergency - the temporary measure entered in all territory of KR or in her certain areas, applied only for the benefit of safety of her citizens and protection of the constitutional system and representing a particular legal regime of activity of public authorities, local governments, organizations, irrespective of forms of ownership, allowing establishment of separate restrictions of the rights and freedoms of citizens, foreign citizens and persons without citizenship, and also the rights of legal entities and assigning to them additional duties. State of emergency in KR is imposed at emergence of crisis situations which elimination is impossible without application of emergency measures.**

**According to article 13 of the code about administrative responsibility, emergency is the actions which have done the harm to the rights and the protected laws, interests made in a condition of emergency that is for elimination of the danger threatening to the personality or the rights of this person or other citizens, to interests of society or state if danger couldn't be under the circumstances eliminated with other means and if the done harm is less considerable, than prevented.**

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:

.....  
.....  
.....

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

.....  
.....  
.....

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:

.....  
.....  
.....

(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:

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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):

.....  
.....  
.....

(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?):

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(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:

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[End of Questionnaire]