

Questionnaire on Exceptions and Limitations to Patent Rights

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

Country: **HONDURAS**.....
Office: **DIRECTORATE GENERAL OF INTELLECTUAL PROPERTY**

Person to be contacted:

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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.

The applicable legal standard is the Law on Industrial Property, contained in Decree No. 12-99-E

ARTICLE 6. An invention shall be patentable where it is industrially applicable, novel and involves an inventive step, and where it is not included in what our legislation excludes from protection as an invention (Articles 5, 6 and 7 of the Law on Industrial Property)

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

ARTICLE 5. *The following shall not be considered inventions and shall therefore be excluded from patent protection.*

- (a) Theoretical or scientific principles;*
- (b) Discoveries which consist in making known or disclosing something which already existed in nature, even though it was previously unknown to humanity;*
- (c) Diagrams, plans, rules and methods for performing mental acts, games or business;*
- (d) Computer programs;*
- (e) Forms of presentation of information;*
- (f) Aesthetic creations and artistic or literary works;*
- (g) Methods of surgical or therapeutic treatment, or diagnosis applicable to the human body and relating to animals; and,*
- (h) Juxtaposition of known inventions or mixtures of known products, their variation in form, dimensions or materials, except where in reality there is a combination or merger such that they cannot function separately or the characteristics or functions thereof are modified in order to obtain an industrial result not obvious to a person skilled in the art.*

ARTICLE 7. *The following shall not be patentable:*

- 1. Essentially biological processes for obtaining or reproducing plants, animals or varieties thereof, including genetic processes or those relating to material capable of conducting its own duplication, by itself or in any other indirect manner, where they consist in selecting or isolating available biological material and leaving it to act in natural conditions; and,*
- 2. Plant varieties and species and animal species and breeds.*

ARTICLE 3. *Also, a patent shall not be granted where its contents or form are contrary to ordre public, morality and good customs, or contravene any legal provision.*

- 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?

ARTICLE 17. *The patent shall confer on its owner the right to exclude third parties from the working of the patented invention. Therefore, and with the limitations provided for in our Law, the patent owner shall have the right to act against any person who, without his consent, performs any of the following acts:*

- 1. Where the patent has been granted for a product:*
 - (a) manufacture the product; and,*
 - (b) offer for sale, sell or use the product, or import it or store it for one of these purposes.*

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

2. Where the patent has been granted for a process:

(a) use the process; and

(b) perform any of the acts indicated in paragraph (1)(b) of this Article with respect to a product resulting directly from the use of the process.

The scope of the protection granted by the patent shall be determined by the claims. The claims shall be interpreted in the light of the description and the drawings.

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):

ARTICLE 18. The rights conferred by the patent may only be enforced against acts performed by third parties for industrial or commercial purposes. In particular, such rights may not be enforced against acts performed exclusively in the private sphere and for non-commercial purposes, or for experimentation, scientific research or teaching purposes relating to the subject matter of the patented invention.

The rights conferred by the patent may not be enforced against any person who markets, acquires or uses the product patented or obtained through the patented process,

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).

immediately after said product has been introduced lawfully into national or international trade by the owner of the patent or by his licensees.

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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?

Eliminating barriers to trade, protecting the strictly personal or family individual right of use and stimulating scientific research and teaching in Honduras.

.....

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

Our Law on Industrial Property clearly states that such rights may not be enforced against acts performed exclusively in the private sphere and for non-commercial purposes, or for experimentation, scientific research or teaching purposes relating to the subject matter of the patented invention.

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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):

Those terms are interpreted in a general manner and so are not established in a conceptual sense in our Law on Industrial Property......

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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):

The Law does not envisage other criteria for determining the scope of this exception.

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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:

For the time being, no kind of amendment is being considered with regard to this subject.

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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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***We have not encountered any kind of problem in Honduras with the practice of this
type of exception.***

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Section III: Experimental use and/or scientific research ⁴

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

In particular, such rights may not be enforced against acts performed exclusively in the private sphere and for non-commercial purposes, or for experimentation, scientific research or teaching purposes in relation to the subject matter of the patented invention......
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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:

As regards this exception in Honduras, no kinds of problems have arisen with the owners of patents when the patents are used for research and teaching.
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13. (a) What are the public policy objectives for providing the exception?

- ***Promoting research.***
 - ***Increasing the level of scientific research in Honduras.***
 - ***Enhancing the level of teaching for the purposes of scientific research.***
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(b) Where possible, please explain with references to the legislative history, parliamentary debates and judicial decisions:

Our Law on Industrial Property, which states only when use may be made of a patent, provided that it is in the private sphere and for non-commercial purposes or for experimentation, scientific research or teaching purposes in relation to the subject matter of the patented invention......
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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:

The legislation of Honduras does not refer to the type or nature of the organization which may carry out experiments or research; this is described in the legislation in general terms......
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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):

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

The legislation of Honduras does not define concepts of use for experimental purposes......
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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
- 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):

The rights conferred by the patent may only be enforced against acts performed by third parties for industrial or commercial purposes. In particular, such rights may not be enforced against acts performed exclusively in the private sphere and for non-commercial purposes, or for purposes of experimentation, scientific research or teaching in relation to the subject matter of the patented invention (Article 18 of the Law on Industrial Property)......
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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:

- 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):

The Law on Industrial Property of Honduras refers to such terms but does so in general with no distinction, in other words it does not mention said definitions in conceptual terms. We therefore interpret it according to the economic sphere; when we refer to “commercial”, there is a perception of a gain, something which is

not permitted by our Law, and when economic remuneration is not received, we are referring to the “non-commercial” sphere......
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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):

There are no other criteria for determining the scope of the exception......
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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:

For the time being, there are no plans to make any kind of amendment in relation to this subject......
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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:

No kind of problems have arisen in relation to the application of this exception in Honduras.

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):

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

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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):

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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:

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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
- No

If yes, please explain what those conditions are:

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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:

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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):

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

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44. (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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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):

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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):

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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):

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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:

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50. 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 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: National legislation has not specified the place of exhaustion.

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:

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):

As to compulsory licenses and other measures relating to the exploitation of patents, our Law states that a compulsory license shall not be granted where it is shown that the non-working or insufficient working are fortuitous or are due to force majeure, or to circumstances that are independent of the will or beyond the control of the patent owner and which justify the non-working or insufficient industrial working of the patented invention. The absence of economic resources or of economic viability of the working shall not be considered mitigating circumstances.

Where the compulsory license is requested for a patent in which a particular semi-conductor technology is claimed, the license shall be granted only for a public non-commercial use for the benefit of a public authority or other person acting on behalf of that authority, or in order to rectify a practice declared contrary to competition, by means of the appropriate administrative or judicial procedure.

In addition, for reasons of public interest, and in particular in cases of emergency or for reasons of national security, nutrition or public health, in a general sense these would constitute other exceptions (Articles 65, 66, 67, 68, 69, 70 and 71 of the Law on Industrial Property).

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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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:

Reference should be made to the fact that they are exceptional and only in relation to patents, the Law establishes certain cases in which their aim is the use or working of an investment made without the consent of the patent owner, which will resolve situations of public interest and emergency motivated by considerations of public health, nutrition and national security......
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(b) Where possible, please explain with references to the legislative history, parliamentary debates and judicial decisions:

As regards this type of license in Honduras, no kind of experience has been acquired......
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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):

ARTICLES 65 and 66. At the request of any person who provides proof of his capacity to work the patented invention, filed after four (4) years following the patent application filing date or three (3) years from the date of grant of the patent, the later date being applied, the Industrial Property Registry may, following a hearing with the patent owner, grant a compulsory license for the working of the patent, where this is not being worked......
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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):

ARTICLE 65 For the purposes of this Law, working of a patent means:

- 1. where the patent has been granted for a product, the internal market supply corresponding to the demand for the product is via local production, import or both;**
- 2. where the patent has been granted for a process not included under (3) of this Article, the use of that procedure on a commercial scale in Honduras; and,**
- 3. where the patent has been granted for a procedure to obtain a product, the internal market supply corresponding to the demand for the product obtained by that system, through the use of the procedure in the country or abroad.**

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?

Three (3) years from the date of grant of the 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”?

ARTICLE 66 (second paragraph). A compulsory license shall not be granted where the absence of or insufficient working is shown as being due to chance or force majeure, or to circumstances independent of the will or beyond the control of the patent owner and which justify the absence of or insufficient industrial working of the patented invention. The absence of economic resources or of economic viability of the working shall not be considered mitigating circumstances......

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):

ARTICLE 67. Any person who requests a compulsory license in accordance with our Law shall provide irrefutable proof of having previously requested from the owner of the patent a contractual license and that he has not been able to obtain such a license on reasonable conditions and within a reasonable period of time. The compulsory license request shall indicate the conditions under which the license is expected to be obtained.

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 decision to grant the compulsory license shall establish:

- 1. the scope or extension of the license, specifying in particular the period and the acts, which shall be mainly in order to supply the country's domestic market.***
 - 2. the amount and form of the payment that must be made by the licensee, said payment being determined on the basis of the scope of working of the invention that is the subject of the license, and the economic value of the license; and,***
 - 3. other conditions which the Industrial Property Registry considers necessary or appropriate for the best possible working of the patent.***
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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:

Where an invention claimed in a patent may not be worked industrially in the country without infringing a previous patent, the Industrial Property Registry may, at the request of the owner of that patent or his licensee, or the beneficiary of a compulsory license for that patent, grant a compulsory license with respect to the previous patent, insofar as it is necessary to avoid the infringement of that previous patent.

Such a license may be granted only when the invention claimed in the later patent involves technical progress of considerable economic importance with respect to the invention that is the subject of the previous patent.

Where a compulsory license is granted in accordance with the previous paragraph, the Industrial Property Registry may, in the same circumstances, grant a compulsory license with respect to the later patent, if the owner of the previous patent, his licensee or the beneficiary a compulsory license for said previous patent so requests. A compulsory license from among those provided for in this Article may not be granted exclusively. This compulsory license may only be subject to assignment, transfer or sub-licensing where the dependent patent whose industrial working requires the license is at the same time subject to assignment, transfer or license. The assignment, transfer or sub-licensing for the compulsory license shall be subject to the provisions of our Law on Industrial Property, as appropriate.

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

ARTICLE 71. Any license of public interest shall give rise to the corresponding payment in favor of the patent owner.

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:

ARTICLE 70. For reasons of public interest, and in particular in cases of emergency or for reasons of national security, nutrition or public health, at the request of any natural person or legal entity, or State entity, or ex officio, provision may at any time be made that:

- 1. an invention, which is the subject matter of a patent or patent application being processed, is worked by a State entity or by one or more public or private law persons designated for the purpose; or,***
- 2. an invention, which is the subject matter of a patent or a patent application being processed, is open to the grant of licenses of public interest, in which case the Industrial Property Registry shall grant a working license to any person who so requests and has the capacity to carry out such working in the country.***

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

There is no previous history of compulsory licenses being granted in Honduras. ..
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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:

In relation to this subject, there are currently no plans to make any amendments to the content of the law......
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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:

For the time being, we do not have any kind of experience as regards granting compulsory licenses......
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Government use

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

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

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

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

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

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

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

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

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

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

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

Farmers’ use of patented inventions

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

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

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

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

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

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

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

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Breeders' use of patented inventions

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

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

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

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

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

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

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

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Section XI: Other Exceptions and Limitations

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

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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):

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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:

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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]