

(1) PROVISIONS OF LAW ON CRIMINAL SANCTIONS FOR PATENT INFRINGEMENT

ALGERIA: *Articles 61 and 62 of the Ordonnance n° 03-07 du 19 Jomada El Oula 1424 correspondant au 19 juillet 2003 relative aux brevets d'invention*

Section 2 - Actions pénales

61. Tout acte au sens de l'article 56 ci-dessus, commis sciemment, constitue un délit de contrefaçon.

Le délit de contrefaçon est puni d'un emprisonnement de six (6) mois à deux (2) ans et d'une amende de deux millions cinq cent mille (2.500.000 DA) dinars à dix millions (10.000.000 DA) de dinars ou de l'une de ces deux peines seulement.

62. Ceux qui ont sciemment recelé, vendu ou exposé en vente ou introduit sur le territoire national un ou plusieurs objets contrefaits sont punis des mêmes peines que les contrefacteurs.

ANDORRA: *Article 35 of the Law on Patents of 10/06/1999*

Article 35 - Right to Bring Action; actions; procedure

(1) Violation of any right established by article 23 constitutes an infringement of the rights of the patent proprietor. Any infringement of the rights protected under this law, shall make the infringer liable to civil and/or criminal prosecution.

(2) The proprietor of a patent may institute the appropriate civil and/or criminal proceedings before the judicial authorities against any person who infringes his rights, in particular:

(a) to obtain an injunction ordering the infringer to cease and desist from actual and threatened use of the patented invention;

(b) to obtain an adequate compensation for damages;

(c) to obtain an order for the disposal outside the channels of commerce or the destruction without compensation, of infringing goods as well as of materials and implements, predominantly used for the creation of infringing goods or the making of the infringing process.

(3)

(a) Unless the license contract provides otherwise, any licensee may request the proprietor of the patent to institute Court proceedings for any infringement of the rights of the patent proprietor, who must specify the relief desired.

(b) Such licensee may, if he proves that the proprietor of the patent refused or failed to comply with the request within the period prescribed by the Implementing Regulations, institute such proceedings on his own behalf after notifying the proprietor of the patent of his intention. The proprietor of the patent shall have the right to join in the proceedings.

(c) Where before the expiry of the period referred to in subparagraph (b), the licensee proves that immediate action is necessary to avoid substantial harm, he may institute the proceedings mentioned in that subparagraph immediately.

(d) Any licensee shall be entitled to join in any proceedings instituted by the proprietor of the patent, in order to secure adequate relief for any injury suffered by him as a result of the infringement, without prejudice to the proceedings that such licensee may institute on his own.

(4) Unless a provisional measure has been applied for under article 37, infringement proceedings may be instituted only after such confirming evidence as referred to in Article 21 has been submitted to the Patent Office and, if required, the patent specification has been amended accordingly.

(5) Civil actions derived from the violation of the rights of a patent proprietor must be instituted within a period of five years from the date when the patent proprietor or, where appropriate, the licensee, has obtained knowledge of the infringement and of the identity of the alleged infringer.

(6) Proceedings concerning a patent application may be instituted only after a patent has been granted on that application.

(7) Where the subject-matter of the patent is a process for obtaining a new product, the same product when produced by any third party shall in the absence of proof to the contrary be deemed to have been obtained by the patented process. In the adduction of proof to the contrary in the course of legal proceedings, the Judicial Authority shall, after declaring that it is pertinent, proceed with the due caution to ensure the protection of the legitimate interests of the defendant in protecting his manufacturing and business secrets.

(8) The Judicial Authority shall order the losing party to pay the winning party its legal costs, including appropriate counsel fees, unless the Judicial Authority considers the case as doubtful.

ANGOLA: *Article 68 of the Law No. 3/92 on Industrial Property of 28/02/1992*

Article 68 - (Violation of rights conferred by a patent)

1. A person shall be liable for prosecution where:

- a) they manufacture, without authorization from the patent owner, the goods or products covered by the subject matter of said patent;
- b) they use the methods or processes that are the subject matter of the patent without due authorization;
- c) they import, sell, export for sale or conceal, for the purpose of sale, a product manufactured in violation of an invention patent.

2. A person committing the offenses referred to in paragraph (1) shall be punished with up to six months' imprisonment and a fine of between New Kwanza (NKz) 20,000.00 and NKz 100,000.00.

ANTIGUA AND BARBUDA: *Section 34 of the Patents Act, Act No. 23 of 2003*

Infringement; unlawful acts; offences

34. (1) Subject to sections 11(4), 13, and 14, an infringement shall consist of the performance of any act referred to in section 11 in Antigua and Barbuda by a person other than the owner of the title of protection and without the agreement of the latter.

(2) On the request of the owner of the title of protection, or of a licensee if he has requested the owner to institute court proceedings for a specific relief and the owner has refused or

failed to do so, the court may grant an injunction to prevent infringement, an imminent infringement, award damages and grant any other remedy provided for in the general law.

(3) Any person who knowingly performs an act which constitutes an infringement as defined in subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$100,000 or to imprisonment for a term of three years.

ARGENTINA: Articles 75 to 80 of the Law on Patents and Utility Models (Consolidated Text of Law No. 24.481 of March 30, 1995, as last amended by Law No. 25.859/2003)

ARTICULO 75 - La defraudación de los derechos del inventor será reputada delito de falsificación y castigada con prisión de SEIS (6) meses a TRES (3) años y multa.

ARTICULO 76 - Sufrirá la misma pena del artículo anterior el que a sabiendas, sin perjuicio de los derechos conferidos a terceros por la presente ley: a) Produzca o haga producir uno o más objetos en violación de los derechos del titular de la patente o del modelo de utilidad; b) El que importe, venda, ponga en venta o comercialice o exponga o introduzca en el territorio de la REPUBLICA ARGENTINA, uno o más objetos en violación de los derechos del titular de la patente o del modelo de utilidad.

ARTICULO 77 - Sufrirá la misma pena aumentada en un tercio:

- a) El que fuera socio mandatario, asesor, empleado u obrero del inventor o sus causahabientes y usurpe o divulgue el invento aún no protegido;
- b) El que corrompiendo al socio, mandatario, asesor, empleado u obrero del inventor o de sus causahabientes obtuviera la revelación del invento;
- c) El que viole la obligación del secreto impuesto en esta ley.

ARTICULO 78 - Se impondrá multa al que sin ser titular de una patente o modelo de utilidad o no gozando ya de los derechos conferidos por los mismos, se sirve en sus productos o en su propaganda de denominaciones susceptibles de inducir al público en error en cuanto a la existencia de ellos.

ARTICULO 79 - En caso de reincidencia de delitos castigados por esta ley la pena será duplicada.

ARTICULO 80 - Se aplicará a la participación criminal y al encubrimiento lo dispuesto por el Código Penal.

ARMENIA: *Article 159 of the Criminal Code of Armenia*

Article 159. Infringement of Patent Rights Illegal use of subject matter patent right, or dissemination of information concerning its nature prior to official recognition of that right without the applicants consent, misappropriation of authorship or compulsion to co-authorship shall entail a fine at the rate of from two-hundred to four-hundred times minimum salary or imprisonment for a maximum term of two years.

AUSTRALIA:

No provision of Law on criminal sanctions for patent infringement

AUSTRIA: § 159 of the Patents Act 1970 (as last amended by Federal Law Gazette (BGBl) I No. 135/2009)

Strafbare Patentverletzung

§ 159. (1) Wer ein Patent verletzt, ist vom Gericht mit Geldstrafe bis zu 360 Tagessätzen zu bestrafen. Wer die Tat gewerbsmäßig begeht, ist mit Freiheitsstrafe bis zu zwei Jahren zu bestrafen.

(2) Ebenso ist der Inhaber oder Leiter eines Unternehmens zu bestrafen, der eine im Betrieb des Unternehmens von einem Bediensteten oder Beauftragten begangene Patentverletzung nicht verhindert.

(3) Ist der Inhaber des Unternehmens nach Abs. 2 eine Gesellschaft, eine Genossenschaft, ein Verein oder ein anderes, nicht zu den physischen Personen gehöriges Rechtssubjekt, so ist Abs. 2 auf die Organe anzuwenden, wenn sie sich einer solchen Unterlassung schuldig gemacht haben.

(4) Abs. 1 ist auf Bedienstete oder Beauftragte nicht anzuwenden, die die Handlung im Auftrag ihres Dienstgebers oder Auftraggebers vorgenommen haben, sofern ihnen wegen ihrer wirtschaftlichen Abhängigkeit nicht zugemutet werden konnte, die Vornahme dieser Handlungen abzulehnen.

(5) Die Verfolgung erfolgt nur auf Verlangen des Verletzten.

AZERBAIJAN:

No provision of Law on criminal sanctions for patent infringement in the Law of the Republic of Azerbaijan on Enforcement of the Intellectual Property Rights and Fight Against Piracy of 22/05/2012 nor in the Law on Patents of 25/07/1997 (version of 2009)

BAHAMAS:

No provision of Law on criminal sanctions for patent infringement in the Industrial Property Act, 1965 (CH.324) as last amended by Act No. 24 of 1994

BAHRAIN: Article 41 of the Law No. 1 of 2004 on Patents and Utility Models as last amended by Law 14 of 2006

Without prejudice to any more severe penalties provided for in any other law, any person who unlawfully and knowingly commits any of the hereunder acts shall be punished by imprisonment for a period not less than (3) months and not exceeding one year, and a fine of not less than 500 Dinars and not exceeding 2000 Dinars, or by either penalty:

a) Manufacturing, selling, offering for sale or distribution, or importing or obtaining for commercial purposes; products that contain a violation of any of the rules granted pursuant with the provisions of this Law.

b) Placing a statement on a product, an advertisement, a trademark, a container, packaging material, or otherwise; that would lead others to believe that a product is patented or registered as a utility model.

The court may also order the publication of the verdict in a local daily newspaper once or more at the offender expense.

If the violation is repeated, the penalty shall be doubled in both the minimum and maximum imprisonment and the closing of the commercial store or project, as may be the case, for not less than 15 days and not exceeding (6) months, and publishing the verdict in a daily newspaper once or more at the expense of the offender.

BARBADOS: Sections 62 and 63 of the Patents Act No. 18 of 26/07/2001

Criminal Liability

62. Offence

(1) No person shall knowingly infringe any right vested in any other person under this Act.

(2) A person who contravenes subsection (1) is guilty of an offence and liable on summary conviction:

(a) to a fine of \$50 000 or to imprisonment for a term of 2 years, or to both; and

(b) in the case of a continuing offence, to a further fine of \$2 000 a day for each day or part of a day on which the offence continues.

Limitation

63. A prosecution for an offence under section 62 may be brought at any time within 5 years from the day the offence was committed or, in the case of a continuing offence, from the day on which the offence was last committed.

BELARUS: Articles 33 and 201 of the Penal Code of the Republic of Belarus No. 275-Z of 9 July, 1999 (as amended up to July 12, 2013)

Статья 33. Деяния, влекущие уголовную ответственность по требованию потерпевшего

15) нарушение авторских, смежных, изобретательских и патентных прав (часть первая статьи 201);

Статья 201. Нарушение авторских, смежных, изобретательских и патентных прав

1. Присвоение авторства либо принуждение к соавторству, а равно разглашение без согласия автора или заявителя сущности изобретения, полезной модели, промышленного образца или иного объекта права промышленной собственности до официальной публикации сведений о них – наказываются общественными работами, или штрафом, или исправительными работами на срок до двух лет.

2. Незаконное распространение или иное незаконное использование объектов авторского права, смежных прав или объектов права промышленной собственности, совершенные в течение года после наложения административного взыскания за такое же нарушение или сопряженные с получением дохода в крупном размере, – наказываются общественными работами, или штрафом, или ограничением свободы на

срок до трех лет, или лишением свободы на срок до двух лет.

3. Действия, предусмотренные частями первой или второй настоящей статьи, совершенные повторно, либо группой лиц по предварительному сговору, либо должностным лицом с использованием своих служебных полномочий, либо повлекшие причинение ущерба в крупном размере, –

наказываются штрафом, или арестом на срок до шести месяцев, или ограничением свободы на срок до пяти лет, или лишением свободы на тот же срок.

Примечание. Крупным размером дохода (ущерба) в настоящей статье признается размер дохода (ущерба) на сумму, в пятьсот и более раз превышающую размер базовой

величины, установленный на день совершения преступления.

BELGIUM: Article 8, § 1 (2) and § 2 (2) of the Law on the Punishment of Counterfeiting and Piracy of Intellectual Property Rights of 05/05/2007 as last amended on 25/02/2011

Sanctions pénales. Art. 8.

§ 1er.

Est puni d'un emprisonnement de trois mois à trois ans et d'une amende de 100 à 100.000 euros ou de l'une de ces peines seulement, celui qui, dans la vie des affaires, porte atteinte avec une intention méchante ou frauduleuse aux droits du titulaire d'une marque de produit ou de service, d'un brevet d'invention, d'un certificat complémentaire de protection, d'un droit d'obtenteur, d'un dessin ou d'un modèle, tels que ces droits sont établis par :

2) en matière de brevets et de certificats complémentaires de protection a) l'article 27 de la loi du 28 mars 1984 sur les brevets d'invention; b) l'article 5 du Règlement (CEE) n° 1768/92 du 18 juin 1992 du Conseil des Communautés européennes concernant la création d'un certificat complémentaire de protection pour les médicaments; c) l'article 5 du Règlement (CE) n° 1610/96 du 23 juillet 1996 du Parlement et du Conseil concernant la création d'un certificat complémentaire de protection pour les produits phytopharmaceutiques;

§ 2.

Le § 1er du présent article ne s'applique notamment pas aux actes suivants :

2) en matière de brevets et de certificats complémentaires de protection a) les actes visés aux articles 27quater, 27quinquies, 28, § 1er, et 30 de la loi du 28 mars 1984 sur les brevets d'invention; b) les actes accomplis uniquement afin de réaliser des essais conformément à l'article 13 de la Directive 2001/82/CE du 6 novembre 2001 instituant un code communautaire relatif aux médicaments vétérinaires ou à l'article 10 de la Directive 2001/83/CE du 6 novembre 2001 instituant un code communautaire relatif aux médicaments à usage humain, en ce qui concerne un brevet portant sur le produit de référence au sens de l'une de ces directives;

BELIZE: Article 63 (1), (7), (11) and (12) of the Patents Act - Cap. 253 of 21/06/2000 as last amended by the Act No. 40 of 2005

Offences

63.-(1) Any person who intentionally or willfully performs any act which constitutes an infringement as defined under section 40 commits an offence and is liable to a fine of not less than fifteen thousand dollars but not more than forty thousand dollars, or to imprisonment for a term of not less than five years but not more than twelve years, or to both such fine and such imprisonment.

(7) In proceedings for an offence under this section, it shall be a defence for the accused to prove that he used due diligence to prevent the commission of the offence.

(11) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to, any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, commits an offence and is liable to be proceeded against and punished accordingly.

(12) Where the affairs of a body corporate are managed by its members, subsection (11) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

BENIN:

No provision of law on criminal sanctions for patent infringement in the Uniform Act of December 15, 2010, on the General Commercial Law

BHUTAN: *Section 41 (3) of the Industrial Property Act of 13/07/2001*

Infringement; Unlawful Acts; Offences

41.

(3) Any person who knowingly performs an act which constitutes an infringement as defined in subsection (1) hereof or an unlawful act as defined in Sections 32(2) and 33 shall be guilty of an offence punishable by imprisonment according to the law of the land or by a fine of upto Nu. 10,00,000 or by both.

BOLIVIA:

No provision of law on criminal sanctions in case of patent infringement in the Law on Industrial Patents, Rules for their Application and Use in the Republic of 2/12/1916;

BOSNIA AND HERZEGOVINA

No provision of Law on criminal sanction for patent infringement in the Patent Law of 28/05/2010

BOTSWANA: *Section 134 (6) and (7) of the Industrial Property Act (Act No. 8 of 2010)*

134. Offences and penalties

(6) Any person who intentionally or wilfully performs any act which constitutes an infringement as defined in subsection (4) of this section, or an unlawful act as defined in sections 93 (3), 111(2) and 114 (2) commits an offence and shall be sentenced, on conviction, to a fine of not less than P2 000 but not more than P5 000, or to imprisonment for a term of not less than six months but not more than two years, or to both.

(7) Any person who commits an offence or unlawful act for which no specific penalty has been specified shall be sentenced to a fine of not less than P2 000 but not more than P5 000, or to imprisonment for a term of not less than six months but not more than two years, or to both.

BRAZIL: Articles 183 to 186 of the of the Industrial Property Law No. 9.279 of 14/05/1996, as last amended by Law No. 10.196 of 14/02/2001

183. A crime against an invention or utility model patent is perpetrated by anyone who:

I. manufactures a product that is the object of an invention or utility model patent, without authorization from the titleholder; or

II. uses a means or process that is the object of an invention patent, without authorization from the titleholder.

Penalty—imprisonment, from 3 (three) months to 1 (one) year, or a fine.

184. A crime against an invention or utility model patent is perpetrated by anyone who:

I. exports, sells, displays or offers for sale, has in stock, conceals or receives, with a view to use for economic purposes, a product manufactured in violation of an invention or utility model patent, or obtained by a patented means or process; or

II. imports a product that is the object of an invention or utility model patent, or obtained by a means or process patented in this country, for the purposes set forth in the preceding Item, and that has not been placed on the foreign market directly by the patentholder or with his consent.

Penalty—imprisonment, from 1 (one) to 3 (three) months, or a fine.

185. Supplying a component of a patented product, or material or equipment to execute a patented process, provided that the final application of the component, material or equipment leads necessarily to the exploitation of the object of the patent.

Penalty—imprisonment, from 1 (one) to 3 (three) months, or a fine.

186. The crimes in this Chapter are determined to have been committed even when the violation does not affect all the claims of the patent or is restricted to the utilization of means equivalent to the object of the patent.

BRUNEI DARUSSALAM:

No provision of law on criminal sanctions for patent infringement in the Patents Order of 12/10/2011

BULGARIA:

No provision of law on criminal sanctions for patent infringement in the Law on Patents and Utility Model Registration, as last amended on 2012

BURUNDI:

No provision of law on criminal sanctions for patent infringement in the Law on Industrial Property No. 1/13 of July 28/07/2009

CABO VERDE: *Article 267 (a), 268 (1), 269 and 275 to 279 of the Industrial Property Code (Decree-Law No. 4/2007 of 20/08/2007)*

Article 267
Crimes against industrial property

The following shall be crimes against industrial property, punishable under the terms of this Code:

(a) infringement of the exclusivity of a patent, utility model or semiconductor product topography;

Article 268
Penalties

1. Criminal offenses provided for under subparagraphs (a), (b), (c), (d) and (e) of Article 267 shall be punishable by a prison sentence of up to three years or a fine of up to 360 days.

Article 269
Complaint

The criminal proceedings relating to the crimes provided for in this Code shall depend on the complaint or participation.

Article 275
Preparation and trial of criminal cases

The preparation of the cases arising from the commission of the crimes provided for in this Code and the respective judgment shall follow the rules of the Code of Criminal Procedure.

Article 276
Participants

In addition to the persons upon which the laws on criminal proceedings confer the right to participate in such proceedings, legally constituted entrepreneurial associations shall also be entitled to intervene in this capacity in the criminal proceedings provided for in this Code.

Article 277
Preparation and decision of criminal cases for infringement

Preparation and the application of the corresponding fines and additional penalties shall be within the remit of the General Inspectorate for Economic Activities.

Article 278
Appropriation of fines

Fines shall be distributed as follows:
(a) 60 per cent to the State;

- (b) 20 per cent to the Directorate General for Economic Activities;
- (c) 20 per cent to the organization responsible for industrial property.

Article 279
Subsidiary right

The Criminal Code and the general regulations relating to infringements, namely with respect to the criminal liability and liability in terms of administrative offenses of legal entities and vicarious liability shall be applicable as an alternative.

CAMBODIA: Articles 133 and 134 of the Law on Patents, Utility Models and Industrial Designs of 22/01/2003

Article 133.-

Any person who knowingly performs an act which constitutes an infringement as defined in Article 125 of this Law hereof shall be guilty of an offence punishable by a fine from five million (5,000,000) Riels to twenty million (20,000,000) Riels or by imprisonment from one (1) year to five (5) years, or by both. The maximum penalty for a repeated offense committed within five (5) years from the date of previous conviction, shall be doubled in both of fine and imprisonment.

Article 134.-

Where a person is found guilty of an offense under this Law, the competent Court may order the seizure of which is deemed as state asset and destruction of the infringing good and of any materials and implement the predominant use of which has been in the commission of the crime.

CANADA:

No provision of law on criminal sanctions for patent infringement in the Patent Act (R.S.C., 1985, c. P-4) as last amended on 26/06/2013

CENTRAL AFRICAN REPUBLIC:

No provision of law on criminal sanctions for patent infringement in the Law No. 10.001 on the Central African Penal Code

CHILE:

No provision of law on criminal sanctions for patent infringement in the Law No. 19.039 on Industrial Property, as last amended on 06/02/2012

CHINA:

No provision of law on criminal sanctions for patent infringement in the Patent Law of 1984 as amended on 27/12/2008

COLOMBIA: *Article 306 of the Criminal Code as last amended on 22/06/2006*

ARTICLE 306: Usurpation of Industrial Property Rights and Plant Breeders' Rights:
Any person who fraudulently uses a trade name, a trademark, patent, utility model, industrial design, or infringes Plants Breeders' Rights, which are legally protected or similar to the point of confusion to a right legally protected, shall receive the penalty of prison sentence of four (4) to eight (8) years, and a fine of twenty six point sixty six (26.66) to one thousand five hundred (1,500) minimum monthly legal salaries in force.
The same punishments shall be imposed on any person who finances, supplies, distributes, offers for sale, markets, transports or acquires for commercial meanings or mediation purposes, goods or plant material which are produced, cultivated or distributed under the circumstances stated in the previous subparagraph.

COMOROS: *Articles from 40 to 44 of the Patents Law of 05/07/1844*

Titre 5 - De la contrefaçon, des poursuites et des peines

Art.40.- Toute atteinte portée aux droits du breveté, soit par la fabrication de produits, soit par l'emploi de moyens faisant l'objet de son brevet, constitue le délit de contrefaçon.
Ce délit sera puni d'une amende de 12.000 à 240.000 F.

Art.41.-Ceux qui auront sciemment recelé, vendu ou exposé en vente, ou introduit sur le territoire comorien, un ou plusieurs objets contrefaits, seront punis des mêmes peines que les contrefacteurs.

Art.42.- Les peines établies par la présente loi ne pourront être cumulées.
La peine la plus forte sera seule prononcée pour tous les faits antérieurs au premier acte de poursuite.

Art.43.-Dans le cas de récidive, il sera prononcé, outre l'amende portée aux articles 40 et 41, un emprisonnement d'un mois à six mois.
Il y a récidive lorsqu'il a été rendu contre le prévenu, dans les cinq années antérieures, une première condamnation pour un des délits prévus par la présente loi.
Un emprisonnement d'un mois à six mois pourra aussi être prononcé, si le contrefacteur est un ouvrier ou un employé ayant travaillé dans les ateliers ou dans l'établissement du breveté, ou si le contrefacteur, s'étant associé avec un ouvrier ou un employé du breveté, a eu connaissance, par ce dernier des procédés décrits au brevet.
Dans ce dernier cas, l'ouvrier ou l'employé pourra être poursuivi comme complice.

Art.44.-Les dispositions du Code pénal relatives aux circonstances atténuantes pourront être appliquées aux délits prévus par les dispositions qui précèdent.

COSTA RICA:

No provision of law on criminal sanctions for patent infringement in the Law No. 6867 OF 15/04/1983 on Patents, Industrial Designs and Utility Models, as last amended by Law No. 8632 of 25/05/2008 nor in the Law No. 8039 on Procedures for Enforcement of Intellectual Property Rights, as last amended by Law N° 8834 of 03/05/2010

COTE D'IVOIRE:

No provision of law on criminal sanctions for patent infringement in the Criminal Code (Law No. 1981-640 of July 31/07/1981 as last amended by Act No. 1995-522 of 06/07/1995)

CROATIA: *Article 97 of the Patents Act of 15/10/2003 as last amended by OG No. 76/2013*

Article 97

(1) Any legal person shall be punished for a misdemeanor by a fine amounting from HRK 20,000 to 100,000, if such act is contrary to the provisions of this Act:

1. making, offering for sale, selling, or importing and stocking for such purposes a product manufactured according to the protected invention (Article 58, paragraph (2), item 1, and Article 59),

2. using or offering for use a process which is the subject-matter of the protected invention (Article 58, paragraph (2), item 2, and Article 59),

3. offering for sale, selling, using, exporting or importing and stocking for such purposes a product obtained directly from the process which is the subject-matter of the protected invention (Article 58, paragraph (2), item 3, and Article 59),

4. offering or delivering a product which constitutes the essential element of the protected invention to persons not entitled to use such invention (Article 58, paragraph (3), and Article 59).

(2) Any natural person shall be punished for a misdemeanor referred to in paragraph (1) of this Article by a fine amounting from HRK 2,000 to 10,000.

(3) A responsible person in the legal entity shall also be punished for a misdemeanor referred to in paragraph (1) of this Article by a fine amounting from HRK 5,000 to 10,000.

(4) A natural person – a craftsman or other self-employed person, respectively, shall be punished for the misdemeanor, referred to in paragraph (1) of this Article, by a fine amounting from HRK 5 000.00 to 50 000.00, where the misdemeanor has been committed in the performance of her/his activities as a craftsman or other self-employed person, respectively.

(5) Articles intended or used for the commitment of the misdemeanor referred to in paragraphs (1), (2) (3) and (4) of this Article shall be seized and destroyed, the final decision to that effect being issued by the judicial authority.

Article 287 of the Criminal Code

Povreda prava na izum

Članak 287.

(1) Tko neovlašteno podnese prijavu za registraciju patenta ili u njoj protivno propisima o zaštiti patenta ne navede ili lažno navede izumitelja ili neovlašteno učini dostupnim javnosti izum prije nego što je on zakonito objavljen javnosti, kaznit će se kaznom zatvora do jedne godine.

(2) Tko protivno propisima o zaštiti patenta izrađuje, nudi na prodaju, prodaje, rabi, izvozi, uvozi, ili skladišti u te svrhe proizvod izrađen prema izumu koji je zaštićen patentom ili

svjedodžbom o dodatnoj zaštiti ili primjenjuje ili nudi primjenu postupka koji je predmet zaštićenog izuma ili nudi na prodaju, prodaje, rabi, izvozi, uvozi ili skladišti u te svrhe proizvod koji je izravno dobiven postupkom koji je predmet izuma i na taj način pribavi znatnu imovinsku korist ili prouzroči znatnu štetu, kaznit će se kaznom zatvora do tri godine.

(3) Za pokušaj kaznenog djela iz stavka 2. ovoga članka počinitelj će se kazniti.

(4) Predmeti koji su bili namijenjeni ili uporabljeni za počinjenje kaznenog djela iz stavka 2. i 3. ovoga članka će se oduzeti, a predmeti koji su nastali počinjenjem kaznenog djela iz stavka 1. i 2. ovoga članka će se oduzeti i uništiti.

(5) Kazneno djelo iz stavka 1. ovoga članka progoni se po prijedlogu oštećenika ili druge zainteresirane osobe.

CUBA: *Article 227 (e) of the Criminal Code, Law No. 62 of 29/12/1987, as last amended on 16/02/1999*

ARTICULO 227. (Modificado) *Se sanciona con privación de libertad de seis meses a dos años o multa de trescientas a mil cuotas al que:*

e) utilice ilegalmente, marca, modelo industrial o patente, en algún producto.

CYPRUS:

No provision of law on criminal sanctions for patent infringement in the Patents Law of 1998

CZECH REPUBLIC: *Provision 151 of the Criminal Code, Act 40/2009*

Provision 151
Infringement of Industrial Rights

A person who infringes rights relating to a protected invention, industrial design, utility design or the topography of a semiconductor product shall be punished by imprisonment for a term of up to one year or by a pecuniary penalty.

DEMOCRATIC REPUBLIC OF CONGO: *Articles 88, 93 and 94 of the Law No. 82-001 of January 7, 1982 on Industrial Property*

Art.88.Any deliberate infringement of the patentee's rights, as defined in Articles 4, 48, 56 and 67 of this Law, shall constitute the offense of counterfeiting which shall incur the civil and criminal liability of the author.

Art.93.The offense of counterfeiting shall be punishable by one to six months' imprisonment and a fine, the amount of which shall be fixed by enabling measures, or by only one of these penalties.

Second offenders shall be punishable by twice the maximum penalties provided for in the previous Article.

Within the meaning of this Article, a second offense shall be deemed to have occurred if the accused has already been convicted of counterfeiting in the last six years.

Art.94.The public right of action for the imposition of penalties, provided for in Article 93, may only be initiated by the Public Prosecutor's Office, at the injured party's request.

Civil action based on counterfeiting shall only be admissible if the offense has been criminally established

DEMOCRATIC REPUBLIC OF KOREA: *Article 42 of the Invention Law of 13/05/1998 as last amended by Decree No. 597 of 11/03/1999*

Article 42 (Administrative or penal responsibility)

The officials of the institutions, enterprises and organizations and the citizens that have violated this law resulting in serious consequences shall, depending on the gravity, be subject to administrative or penal responsibilities.

DENMARK: *Article 57 of the Consolidated Patents Act, Act No. 108 of 24/01/2012*

57.-

(1) Any person who intentionally or grossly negligently infringes the exclusive right conferred by a patent (patent infringement) shall be punished with a fine.

(2) If the infringement has been committed intentionally and under aggravating circumstances, the penalty may increase to imprisonment of up to 1 year and 6 months, unless a heavier penalty is provided for by section 299b of the Penal Code. Aggravating circumstances shall in particular be considered to exist if a significant and obviously unlawful profit is intended by the infringement.

(3) Companies, etc. (legal entities) may be held liable to punishment under the rules of Part 5 of the Penal Code.

(4) In the case of infringements comprised by subsection 1 proceedings shall be instituted by the injured party. In the case of infringements comprised by subsection 2 proceedings shall be instituted only at the request of the injured party unless the institution of proceedings is required in the interests of the public.

DJIBOUTI: *Articles 200 to 204 of the Law No. 50/AN/09/6th L on the Protection of Industrial Property of 21/06/2009*

Section II – Criminal proceedings

Article 200

Any deliberate violation of the rights of a patent owner, as defined in Articles 53 and 54 above, shall constitute infringement and shall be punishable by the penalties provided for in Articles 301 to 303 of the Penal Code.

The court may also order additional penalties provided for in Articles 310 to 312 of the Penal Code.

Article 201

Those who have knowingly received, displayed, placed on sale or sold, introduced or exported known infringing goods, shall be liable to the same penalties as the infringers. The same shall apply to any assistance knowingly provided to the author of the offenses referred to above.

Article 202

The penalties provided for under Articles 200 and 201 above shall be increased to five years' imprisonment and a fine of 10,000,000 FD, or to only one of these two penalties, if the infringer is a salaried employee who has worked in the workshops or in the establishment of the patent owner.

Salaried workers who have associated themselves with the infringer after giving him information on the processes described in the patent shall be liable to the same penalties.

Article 203

Without prejudice, where applicable, to the more stringent penalties concerning violations of State security, anyone who knowingly infringes one of the prohibitions laid down in Article 42 above shall be punishable by a fine of 2,000,000 FD.

DOMINICA:

No provision of law on criminal sanctions for patent infringement in the Patents Act (Act 8 of 1999)

DOMINICAN REPUBLIC:

No provision of law on criminal sanctions for patent infringement in the Law No. 20-00 on Industrial Property as last amended by Law No. 424-06

ECUADOR: *Articles 319 (a) and (b), 327, 328 and 329 of the Intellectual Property Law (Consolidation No. 2006-13)*

Art. 319. A prison term of three months to three years and a fine of one thousand three hundred and fourteen United States dollars and 45/100 (1,314.45) to thirteen thousand one hundred and fortyfour United States dollars and 50/100 (13,144.50), taking into consideration the degree of financial injury caused, shall be incurred by anyone who stores, manufactures, uses for commercial purposes, offers for sale, sells, imports or exports any of the following in violation of intellectual property rights:

- (a) a product covered by an invention patent or utility model obtained in Ecuador;
- (b) a product manufactured using a process covered by an invention patent obtained in Ecuador;

Art. 327. – The following shall be aggravating circumstances, in addition to those set out in the Penal Code:

- (a) where the infringer has received a warning regarding the infringement of a right;
- (b) where the infringing goods are a potential health hazard; and
- (c) where the infringements are committed in respect of unpublished works.

Art. 328. – The infringements set out in this Chapter shall be prosecutable publicly and by the State.

Art. 329. – Civil and criminal proceedings shall be subject to the statute of limitations, in accordance with the Civil Code and the Penal Code respectively, except for proceedings for infringement of moral rights, to which the statute of limitations shall not apply.

In the absence of proof to the contrary and for the purposes of the statute of limitations on proceedings, the date on which an infringement was committed shall be the first day of the year following the latest edition, reissue, reproduction, communication or other use of a work, performance, production or broadcast.

EGYPT: *Article 32 of the Law No. 82 of 2002 on the Protection of Intellectual Property Rights*

Article 32

Without prejudice to the provisions of Article 10, shall be subject to a fine of not less than 20,000 pounds and not more than 100,000 pounds any party who undertakes:

(1) the imitation, for commercialisation purposes, of the subject matter of an invention or a utility model for which a patent has been granted in accordance with the provisions of this Law;

(2) the sale, offer for sale or circulation, importation or possession with the intention to trade, of products known to that party as imitations, where the patent for the invention or the utility model for such products is granted and valid in Egypt;

(3) the unlawful use, on products, advertisements, trademarks, packaging or others, of indications that may lead to believe that such a party has obtained a patent for an invention or a utility model.

Repetition of the offence shall be punishable by imprisonment for a period of no more than two years and by a fine of not less than 40,000 pounds and not more than 200,000 pounds. In all cases, the court shall order the seizure of the infringing imitated products and the implements used in the imitation. The conviction decision shall be published in one or more daily newspapers, at the expense of the convicted party.

EL SALVADOR:

No provision of law on criminal sanctions for patent infringement in the Law on the Promotion and Protection of Intellectual Property, Legislative Decree No. 604 of 15/07/1993, as last amended by Legislative Decree No. 912 of 14/12/2005, nor in the Criminal Code as last amended by Legislative Decree No. 914 of 14/12/2005

EQUATORIAL GUINEA: *Article 534 of the Criminal Code of 03/04/1980*

Sección 3.a_De las infracciones del derecho de autor y de la propiedad industrial

534. El que infringiere intencionadamente los derechos de autor será castigado con las penas de arresto mayor y multa de 10.000 a 100.000 pesetas, independientemente de las sanciones determinadas en las leyes especiales.

La misma pena se aplicará a los que de igual manera infringieren los derechos de propiedad industrial.

La reincidencia, en ambos casos, se castigará con la pena de prisión menor.

La presente Sección 11 el artículo que la desarrolla fueron adicionados por la Ley 79/1961, de 23 de diciembre, de Bases para la revisión parcial del Código Penal, desarrollada por el Decreto 168/1963, de 24 de enero. En el nuevo artículo 534 queda re-

11mdido el originario artículo 533.
REDACCIÓN ORIGINARIA DEL ARTÍCULO 533.-«Incurrirán en las penas señaladas en el artículo 531 los que cometieren alguna defraudación de la propiedad intelectual o industrial”

ESTONIA:

No provision of law on criminal sanctions for patent infringement in the Patent Act (Act No. RT I 1994, 25, 406, as last amended by Act No. RT I, 28.12.2011,1)

ETHIOPIA:

No provision of law on criminal sanctions for patent infringement in the Inventions, Minor Inventions and Industrial Designs Proclamation No. 123/1995

FINLAND: Article 57 of the Patents Act, Act No. 550 of 15/12/1967 as last amended by Act No. 101/2013

Section 57. The court may forbid any person who infringes the exclusive right afforded by a patent (patent infringement) from continuing or repeating the act.

Where such person intentionally infringes a patent, he shall, unless the act is punishable as an industrial property right offence under section 2 of Chapter 49 of the Penal Code, be liable to a fine for a violation of a patent right.

Indictment for violation of a patent right may be brought by the prosecutor at the request only of the injured party. (13.5.2010/478)

FRANCE: Articles L615-14, L615-14-1, L615-14-2 and L615-14-3 of the Intellectual Property Code (consolidated as of January 1, 2014)

Article L615-14

1. Sont punies de trois ans d'emprisonnement et de 300 000 euros d'amende les atteintes portées sciemment aux droits du propriétaire d'un brevet, tels que définis aux articles L. 613-3 à L. 613-6. Lorsque le délit a été commis en bande organisée ou sur un réseau de communication au public en ligne ou lorsque les faits portent sur des marchandises dangereuses pour la santé, la sécurité de l'homme ou l'animal, les peines sont portées à cinq ans d'emprisonnement et à 500 000 euros d'amende.

2. Alinéa périmé.

Article L615-14-1

En cas de récidive des infractions définies à l'article L. 615-14, ou si le délinquant est ou a été lié par convention avec la partie lésée, les peines encourues sont portées au double.

Les coupables peuvent, en outre, être privés pendant un temps qui n'excédera pas cinq ans du droit d'élection et d'éligibilité pour les tribunaux de commerce, les chambres de commerce et d'industrie territoriales et les chambres de métiers, ainsi que pour les conseils de prud'hommes.

Article L615-14-2

Les personnes physiques coupables du délit prévu à l'article L. 615-14 peuvent en outre être condamnées, à leurs frais, à retirer des circuits commerciaux les objets jugés contrefaisants et toute chose qui a servi ou était destinée à commettre l'infraction.

La juridiction peut ordonner la destruction aux frais du condamné ou la remise à la partie lésée des objets et choses retirés des circuits commerciaux ou confisqués, sans préjudice de tous dommages et intérêts.

Elle peut également ordonner, aux frais du condamné, l'affichage du jugement ou la diffusion du jugement prononçant la condamnation, dans les conditions prévues à l'article 131-35 du code pénal.

Article L615-14-3

Les personnes morales déclarées responsables pénalement, dans les conditions prévues par l'article 121-2 du code pénal, de l'infraction définie à l'article L. 615-14 encourrent, outre l'amende suivant les modalités prévues par l'article 131-38 du code pénal, les peines prévues par l'article 131-39 du même code.

L'interdiction mentionnée au 2° de l'article 131-39 du même code porte sur l'activité dans l'exercice ou à l'occasion de l'exercice de laquelle l'infraction a été commise.

Les personnes morales déclarées pénalement responsables peuvent en outre être condamnées, à leurs frais, à retirer des circuits commerciaux les objets jugés contrefaisants et toute chose qui a servi ou était destinée à commettre l'infraction.

La juridiction peut ordonner la destruction aux frais du condamné ou la remise à la partie lésée des objets et choses retirés des circuits commerciaux ou confisqués, sans préjudice de tous dommages et intérêts.

GAMBIA: Article 43 (1) and (3) of the Industrial Property Act of 1989 as last amended on 02/04/2007

Infringement, Unlawful Acts, Offences

43. (1) Subject to the provisions of sections 12 (4) and (6), 14, 24 (3) and 31 (3) of this Act, an infringement shall consist of the performance of any act referred to in sections 12, 24 and 31 of this Act in The Gambia by a person other than the owner of the title of protection and without the agreement of the latter.

(3) Any person who performs an act which constitutes an infringement as defined in subsection (1) of this section or an unlawful act as defined in subsection (2) of section 35, or section 36, of this Act, commits an offence and shall be liable on conviction to a fine not exceeding five thousand dalasis or to imprisonment for a term of six months, or to both such fine and imprisonment.

GEORGIA:

No provision of law on criminal sanctions for patent infringement in the Law of Patents of 5/02/1999 and in the Criminal Code of 22/07/1999

GERMANY: *Section 142 of the Patent Law as amended on 31/07/2009*

Section 142

(1) Any person shall be punished by imprisonment not exceeding three years or by a fine, who, without the required consent of the patentee or of the owner of a supplementary protection certificate (Sections 16a, 49a),

1. makes or offers, puts on the market, uses or imports or possesses for said purposes a product which is the subject matter of the patent or of the supplementary protection certificate (Section 9, sentence 2, no. 1); or

2. uses or offers for use within the territory to which this Act applies a process which is the subject matter of the patent or of the supplementary protection certificate (Section 9, sentence 2, no.2);

The provision of sentence 1, no. 1, is also to be applied if the product has been directly made by a process which is the subject matter of the patent or of the supplementary protection certificate (Section 9, sentence 2, no. 3).

(2) When the offender is acting on a commercial scale, the penalty shall be imprisonment for up to five years or a fine.

(3) The attempt is punishable.

(4) In the cases referred to in subsection (1), the act shall only be prosecuted on demand, unless the criminal prosecution authority deems that prosecution ex officio is justified due to a particular public interest.

(5) Objects to which the criminal act relates may be confiscated.

Section 74a of the Criminal Code shall apply. Where the claims referred to in Section 140a are granted in proceedings under the provisions of the Code of Criminal Procedure (Strafprozessordnung) regarding compensation of the injured party (Sections 403 to 406c), the provisions on confiscation shall not be applied.

(6) When a penalty is imposed, the court shall, at the request of the injured party and if the latter can show a legitimate interest, order publication of the judgment. The form of publication shall be determined in the judgment.

GHANA: *Section 37 of the Patent Act, Act No. 657 of 2003*

Section 37—Offences.

Subject to sections 11(4), 13 and 14, a person who knowingly performs any of the acts referred to in section 11 (2) in the country without the consent of the owner commits an offence and is liable to a fine not exceeding two thousand penalty units or to imprisonment for a term not exceeding two years.

GREECE:

No provision of law on criminal sanctions for patent infringement in the Law No. 1733/1987 on Technology Transfer, Inventions and Technological Innovation (2011 version)

GUATEMALA: *Articles 206 to 208 of the Industrial Property Law, Decree No. 57-2000 of 18/09/2000 and Article 275 (k) of the Criminal Code*

Industrial Property Law

Ejercicio de la Acción Penal

206. Corresponde al Ministerio Público el ejercicio de la acción penal en contra de los responsables de los delitos y faltas tipificados en materia de Propiedad Industrial en el Código Penal y otras leyes. El titular o licenciatario de los derechos infringidos podrá provocar la persecución penal denunciando la violación de tales derechos o adherirse a la ya iniciada por el Ministerio Público, entidad que estará obligada a actuar directa e inmediatamente en contra de los responsables. Podrá también instar la persecución penal cualquier asociación u organización representativa de algún sector de la producción o de los consumidores.

Providencias Cautelares

207. El Ministerio Público requerirá al Juez competente que autorice cualesquiera de las providencias cautelares establecidas en esta ley o en el Código Procesal Penal y que resulten necesarias para salvaguardar los derechos reconocidos y protegidos por esta ley y en los tratados internacionales sobre la materia de los que Guatemala sea parte, y que estén resultando infringidos, o bien, cuando su violación sea inminente.

Presentada la solicitud, el Juez procederá conforme lo establecido en los artículos 186 y 187 de esta ley, autorizando al Ministerio Público para que proceda a su ejecución con el auxilio de la autoridad policiaca necesaria.

Procedimiento Específico

208. En cualquier estado del proceso, si existe acuerdo entre el titular o licenciatario de los derechos infringidos y la persona o personas responsables sindicadas del ilícito penal, y los primeros han sido resarcidos satisfactoriamente del daño ocasionado y se les ha pagado, o bien, garantizado debidamente los perjuicios producidos por la comisión de alguno de los delitos establecidos en materia de Propiedad Intelectual, el Ministerio Público, previa autorización judicial, podrá abstenerse de continuar la acción penal de conformidad con lo que establece el Código Procesal Penal. En este caso, el juez ordenará levantar las medidas cautelares respectivas, así como archivar el expediente.

Criminal Code

275. Sin perjuicio de las responsabilidades civiles que correspondan, será sancionado con prisión de uno a cuatro años y multa de un mil a quinientos mil quetzales, quien sin el consentimiento del titular del derecho, realice alguno de los siguientes actos:

k) Fabricar, elaborar, comerciar, ofrecer en venta, poner en circulación, almacenar o detentar productos amparados por una patente ajena;

GUINEA BISSAU: *Article 41 of the Industrial Property Code, Decree No. 6/96 of 03/03/1996*

ARTIGO 41° Contrafacção; actos ilícitos; infracções

1. Sem prejuizo de artigo 10°, n°s 4 e 7, artigos 12° e 22°, n° 3 e artigo 28° n° 3. constitui uma contrafacção qualquer um dos actos a que se refere os artigos 10°, 22° e 28°, efecluido na Guineia-Bissau por uma pessoa que não seja o titular do titulo de protecção o sem o seu consentimento.

4. Qualquer pessoa que efectue um acto que constitui uma contrafacção no sentido do numero 1 ou um acto ilícito no sentido dos artigos 32º, nºs 2, 3; e 33º, comete um delito e pode ser punido com pena de prisão até um ano ou com pena de multa correspondente.

HAITI: *Articles 23 to 26 of the Law on Patents of Inventions and Industrial Designs of 14/12/1922 as last amended in 1924*

Art 23. Toute atteinte portée aux droits du breveté, soit par la fabrication de produits, soit par l'emploi de moyens faisant l'objet de son brevet, constitue délit de contrefaçon. Ce délit sera puni d'une amende de 20 à 1000 dollars.

Art. 24. Ceux qui auront seulement recelé, vendu ou exposé en vente ou introduit sur le territoire haïtien un ou plusieurs objets contrefaits seront punis des mêmes peines que les contrefacteurs.

Art. 25. Dans le cas de récidive, il sera prononcé outre l'amende portée aux articles 22 et 23, un emprisonnement de un mois à six mois.

Il y récidive lorsqu'il a été rendu contre le prévenu, dans les cinq ans antérieurs, une première condamnation pour un des délits prévu par la présente loi.

UN emprisonnement de un mois à six mois pourra aussi être prononcé si le contrefacteur est un ouvrier ou un employé ayant travaillé dans les ateliers ou dans l'établissement du breveté, ou si le contrefacteur s'étant associé avec un ouvrier ou employé du breveté, a eu connaissance par ce dernier des procédés décrits au brevet. Dans ce dernier cas, l'ouvrier ou employé pourra être poursuivi comme complice.

Art. 26. L'action en correctionnel saisi d'une action pour délit de contrefaçon statuera sur les exceptions qui seraient tirées par le prevenu soit de la nullité du brevet, soit des questions relatives à la propriété du brevet.

HONDURAS:

No provision of law on criminal sanctions for patent infringement in the Industrial Property Law (approved by Decree No. 12-99-E)

HUNGARY: *Section 329 D of the Criminal Code, Act No. IV of 1978*

Violation of Industrial Design Rights
Section 329/D.

(1) A person who violates the right of the holder of a patent, plant variety, certification of supplementary protection, trademark, geographical indication, design rights, utility models or topographies conferred on the basis of an act, promulgated international convention or Community legislation by imitating or copying the subject matter of protection, and thereby causing financial injury, is guilty of a misdemeanor punishable by imprisonment of up to two years, community service work, or a fine.

(2) The punishment for a felony shall be imprisonment for up to three years if the violation of industrial design rights:

a) results in substantial financial injury;

b) is committed in a pattern of business operation.

(3) The punishment shall be:

a) imprisonment of up to five years if the violation of industrial design rights results in particularly considerable financial injury;

b) imprisonment between two to eight years if the violation of industrial design rights results in particularly substantial financial injury.

ICELAND: *Article 57 of the Patents Act No. 17/1991 as last amended by Act No. 126/2011*

Article 57

Any person who intentionally infringes the exclusive right conferred by a patent shall be punished by fine, or under aggravated circumstances, by [imprisonment] 1) of up to three months.

If the offence is committed by a society or other company the enterprise may be liable to a fine.

Proceedings shall be brought by the injured party.

INDIA:

No provision on criminal sanctions for patent infringement in the Patents Act of 1970 as last amended by Act No. 15 of 2005

INDONESIA: *Articles 130 to 135 of the Patents Law No. 14 of 01/08/2001*

Article 130

Any person who deliberately and without rights infringes the rights of a Patent Holder by committing any of the acts as referred to in Article 16 shall be sentenced to imprisonment of at most 4 (four) years and/or a fine of at most Rp.500,000,000.00 (five hundred million rupiahs).

Article 131

Any person who deliberately and without rights violates the rights of a Simple Patent holder by committing any of the acts as referred to in Article 16 shall be sentenced to imprisonment of at most 2 (two) years and/or a fine of at most Rp.250,000,000.00 (two hundred and fifty million rupiahs).

Article 132

Any person who deliberately fails to fulfill the obligations as referred to in Article 25 paragraph (3), Article 40, and Article 41 shall be sentenced to imprisonment of at most 2 (two) years.

Article 133

The criminal offences referred to in Article 130, Article 131, and Article 132 shall constitute offense that warrants complaints.

Article 134

Where an infringement on Patent is established, a judge may order that the products resulted from the infringement shall be confiscated by the State to thereafter be destroyed.

Article 135

Exempted from the criminal provisions as referred to in this Chapter are:

a. the importation of a pharmaceutical product protected by a patent in Indonesia and that the product has been marketed in a country by the right Patent Holder provided that the product is imported in accordance with the prevailing rules and regulations;

b. the production of a pharmaceutical product protected by a patent in Indonesia in a period of 2 (two) years before the termination of the patent protection with the purpose to process the permit and to do marketing after the termination of the patent protection.

IRAN: *Article 61 (1) of the Patent, Industrial Design and Trademark Registration Act of 29/10/2007*

Article 61 - Any person who, knowingly and intentionally, performs an act which constitutes an infringement as defined under Articles 15, 28 and 40 or an unlawful act as defined in Article 47, shall be guilty of an offence punishable by a fine from Iranian Rial ten million (10,000,000 Rial) to Iranian Rial fifty million (50,000,000 Rial) or imprisonment term of 91 days to 6 months or both as well as payment of any damages arising from the said acts.

IRELAND:

No provision on criminal sanctions for patent infringement in the Patents Act, Act No. 1 of 27/02/1992 as last amended by Act No. 31 of 2006

ISRAEL:

No provision on criminal sanctions for patent infringement in the Patent Law No. 5727-1967 as last amended on 11/08/2014

ITALY: *Article 127 (1) of the Industrial Property Code, Legislative Decree No. 30 of 2005, as last amended on 24/01/2012 and Article 473 of the Criminal Code*

Art. 127

Sanzioni penali e amministrative

1.

Salva l'applicazione degli articoli 473, 474 e 517 del codice penale, chiunque fabbrica, vende, espone, adopera industrialmente, introduce nello Stato oggetti in violazione di un titolo di proprietà industriale valido ai sensi delle norme del presente codice, e' punito, a querela di parte, con la multa fino a 1.032,91 euro.

Criminal Code

Art. 473.

Contraffazione, alterazione o uso di segni distintivi di opere dell'ingegno o di prodotti industriali. (1)

Chiunque, potendo conoscere dell'esistenza del titolo di proprietà industriale, contraffà o altera marchi o segni distintivi, nazionali o esteri di prodotti industriali, ovvero chiunque, senza essere concorso nella contraffazione o alterazione, fa uso di tali marchi o segni

contraffatti o alterati, è punito con la reclusione da sei mesi a tre anni e con la multa da euro 2.500 a euro 25.000.

Soggiace alla pena della reclusione da uno a quattro anni e della multa da euro 3.500 a euro 35.000 chiunque contraffà o altera brevetti, disegni o modelli industriali nazionali o esteri, ovvero, senza essere concorso nella contraffazione o alterazione, fa uso di tali brevetti, disegni o modelli contraffatti o alterati.

I delitti previsti dai commi primo e secondo sono punibili a condizione che siano state osservate le norme delle leggi interne, dei regolamenti comunitari e delle convenzioni internazionali sulla tutela della proprietà intellettuale o industriale.

JAMAICA:

No provision on criminal sanctions for patent infringement in the Patents Act of 1857 as last amended on 1975

JAPAN: Articles 101, 196 and 196-2 of the Patent Act, Act No. 121 of 1959 as amended up to Act No. 63 of 2011)

(Acts Deemed to constitute infringement) Article 101

The following acts shall be deemed to constitute infringement of a patent right or an exclusive license:

- (i) where a patent has been granted for an invention of a product, acts of producing, assigning, etc., importing or offering for assignment, etc. any product to be used exclusively for the producing of the said product as a business;
- (ii) where a patent has been granted for an invention of a product, acts of producing, assigning, etc., importing or offering for assignment, etc. any product (excluding those widely distributed within Japan) to be used for the producing of the said product and indispensable for the resolution of the problem by the said invention as a business, knowing that the said invention is a patented invention and the said product is used for the working of the invention;
- (iii) where a patent has been granted for an invention of a product, acts of possessing the said product for the purpose of assigning, etc. or exporting it as a business;
- (iv) where a patent has been granted for an invention of a process, acts of producing, assigning, etc., importing or offering for assignment, etc. any product to be used exclusively for the use of the said process as a business; and
- (v) where a patent has been granted for an invention of a process, acts of producing, assigning, etc., importing or offering for assignment, etc. any product (excluding those widely distributed within Japan) to be used for the use of the said process and indispensable for the resolution of the problem by the said invention, knowing that the said invention is a patented invention and the said product is used for the working of the invention as a business;
- (vi) where a patent has been granted for an invention of a process of producing a product, acts of possessing the product produced by the said process for the purpose of assigning, etc. or exporting it as a business.

Article 196 (Crime of infringement)

An infringer of a patent right or exclusive license (excluding one who has committed an act that shall be deemed to constitute infringement of a patent right or an exclusive license under Article 101) shall be punished by imprisonment with work for a term not exceeding ten years or a fine not exceeding 10,000,000 yen or combination thereof.

Article 196-2

Any person who has committed an act that shall be deemed to constitute infringement of a patent right or an exclusive license under Article 101 shall be punished by imprisonment with work for a term not exceeding five years or a fine not exceeding 5,000,000 yen or combination thereof.

JORDAN: *Article 33 A and B of the Patents Law No. 32 of 1999 as last amended in 2006*

Article 33

A-The Patentee of a registered patent in the Kingdom, when filing a civil or criminal lawsuit or during the course of the hearings, may petition the court to take any of the following measures, provided the petition is attached with a bank guaranty or a cash deposit accepted by the court

- 1 Cease the infringement
- 2 Place a provisional seizure on the product, the subject matter of infringement, wherever found
- 3 Preserve relevant evidence to the infringement.

B-The Patentee alleging infringement upon his patent may, prior to filing a civil or criminal lawsuit, petition the court to take any of the measures provided for in Paragraph (A) of this Article, without notifying the counter-party, if he proves that he is the patentee and that his rights had been infringed upon, or that such infringement is imminent and is likely to cause damages of irreparable harm, or where there is a demonstrable risk of evidence being destroyed or disappeared, provided that such petition is attached with a bank guaranty or a cash deposit accepted by the court The counter-party may appeal this decision within eight days of notification The decision of the Court of Appeal in this regard shall be final

KAZAKHSTAN: *Articles 3 and 199 of the Criminal Code of the Republic of Kazakhstan of 03/07/2014 № 226-V ЗПК*

Статья 3. Разъяснение некоторых понятий, содержащихся в настоящем Кодексе

2) значительный ущерб и значительный размер – в статьях: 198 и 199 – размер ущерба или стоимость прав на использование объектов интеллектуальной собственности либо стоимость экземпляров объектов авторского права и (или) смежных прав или товаров, содержащих изобретения, полезные модели, промышленные образцы, селекционные достижения или топологии интегральных микросхем, в сто раз превышающие месячный расчетный показатель;

Статья 199. Нарушение прав на изобретения, полезные модели, промышленные образцы, селекционные достижения или топологии интегральных микросхем

1. Разглашение без согласия автора или заявителя сущности изобретения, полезной модели, промышленного образца, селекционного достижения или топологии интегральной микросхемы до официальной публикации сведений о них, а равно присвоение авторства или принуждение к соавторству либо незаконное использование изобретения, полезной модели, промышленного образца, селекционного достижения или топологии интегральной микросхемы –

наказываются штрафом в размере до ста месячных расчетных показателей либо исправительными работами в том же размере, либо привлечением к общественным работам на срок до ста двадцати часов.

2. Те же деяния, если они совершены в значительном размере или причинили значительный ущерб либо существенный вред правам или законным интересам автора или иного правообладателя либо совершены неоднократно, –

наказываются штрафом в размере до трехсот месячных расчетных показателей либо исправительными работами в том же размере, либо привлечением к общественным работам на срок до двухсот сорока часов, либо арестом на срок до семидесяти пяти суток.

3. Деяния, предусмотренные частью второй настоящей статьи, совершенные:

- 1) группой лиц по предварительному сговору;
- 2) в крупном размере или причинившие крупный ущерб;
- 3) лицом с использованием своего служебного положения, –

наказываются штрафом в размере до пяти тысяч месячных расчетных показателей либо исправительными работами в том же размере, либо ограничением свободы на срок до пяти лет, либо лишением свободы на тот же срок, с лишением права занимать определенные должности или заниматься определенной деятельностью на срок до трех лет или без такового.

4. Деяния, предусмотренные частями второй или третьей настоящей статьи, совершенные преступной группой, –

наказываются лишением свободы на срок от трех до семи лет.

KENYA: Article 109 of the Industrial Property Act of 27/07/2001

109. (1) Any intentional infringement of the patent or the registered utility model or industrial design shall constitute an offence under this Act.

(2) Such an offence upon conviction shall be punishable with a fine of not less than one hundred thousand shillings, and not exceeding five hundred thousand shillings, or with imprisonment for a term of not less than three years, and not more than five years, or with both.

KYRGYZSTAN:

No provision of law on criminal sanctions for patent infringement in the Patent Law of the Kyrgyz Republic (as amended up to Law No. 8 of January 25, 2013)

LAO'S PEOPLE DEMOCRATIC REPUBLIC: Sections 145 and 157 of the Intellectual Property Law No. 01/NA of 20/12/2011

Article 145 (new). Criminal Offenses of Intellectual Property

The criminal offenses of intellectual property shall be as follows:

1. intentionally violating Articles 117, 118, 119, and/or 120 of this Law for a commercial purpose;
2. intentionally violating Articles 117, 118, 119, 120, 121, and/or 122 of this Law, where such violation results in harm to the health of a person, damage to the environment, or damage to property;
3. intentionally violating Article 121 and/or 122 of this Law.

Article 157. Measures against Violators

Individuals, legal entities or organizations that violate the Law on Intellectual Property will be subject to education or warning, disciplinary action, fines, civil compensation, and/or criminal punishment as the case may be.

LATVIA:

No provision on criminal sanctions for patent infringement in the Patent Law of 15/02/2007

LEBANON: *Article 40 of the Law No. 240/2000 of 2000 on Patents*

Article 40:

Infringements of the basically published patent owner's right is a crime of counterfeit -Offering, marketing, utilizing or holding the counterfeit product with the intention of usage or marketing shall not constitute a crime on the part of the person doing such an act while not being the manufacturer of the counterfeit product unless such act is done while being aware that such product is a counterfeit.

LESOTHO: *Section 43 of the Industrial Property Order of 1989 (Order No. 5 of 1989, as last amended by Act No. 4 of 1997)*

Infringement, unlawful acts, offences

43.—(1) Subject to sections 13(3) and (5), 15, 24(2) and 29(3), an infringement shall consist of the performance in Lesotho, by any person other than the owner of the title of protection, without the agreement of the latter, of any act referred to in sections 13, 24 and 29.

(2) On the request of the owner of the title of protection, or of a licensee if he has requested the owner to institute court proceedings for a specific relief and the owner has refused or failed to do so, the court may grant an interdict to prevent infringement, an imminent infringement, or an unlawful act referred to in sections 33(2) and (3) and 34, award damages and grant any other remedy provided for in the general law.

(3) On the request of any competent authority or any interested person, association or syndicate, in particular, of producers, manufacturers or traders, the court may grant the same relief in case of an act of unfair competition referred to in section 34.

(4) Any person who performs an act which constitutes an infringement as defined in subsection (1) or an unlawful act as defined in section 33(2) and (3), and section 34, commits an offence and is liable to a fine of M10,000 or to imprisonment for a term of 10 years or to both.

LIBERIA: *Section 51 (1), (2) and (3) of the Industrial Property Act of 20/03/2003*

Infringement; Unlawful Acts; Offences

51(1) Subject to Sections 23(4), 25, 26, 43(3) and 49 (3) an infringement shall consist of the performance of any act referred to in Section 23, 27 and 49 In Liberia by a person other than the owner of the title of protection and without the agreement of the latter.

(2)(a) On the request of the owner of the title of protection, or of a licensee if he has requested the owner to institute court proceedings for a specific relief and the owner has refused or failed to do so, the court may grant an injunction to prevent infringement an imminent infringement, or an unlawful act referred to in Section 4(2) and 5, award damages and grant any other remedy provided for in the general law

(b) On the request of any competent authority or any interested person, association or syndicate, in particular of producers, manufacturers or traders, the court may grant the same relief in case of an act of unfair competition referred to the Section 5.

(3) Any person who knowingly performs an act which constitutes an infringement as defined in subsection (1) hereof or an unlawful act as defined in Section 4(2) and 48 shall be guilty of an offense punishable by a fine not less than USD 500000 or by Imprisonment for a term not exceeding 5 years or both.

LIBYA: Article 44 of the Law No. 8 of 1959 on Patents and Industrial Designs and Models

Article No. 44:

Without prejudice to any more sever penalty provided for in any other law, a penalty of imprisonment and a fine ranging between 10-20 pounds shall be imposed on:

1- Anyone who forged an invention which has been granted a patent in accordance with the provisions of this law.

2- Anyone who forged an industrial design or model that was registered in accordance with the provisions of this law.

3- Anyone who sold, offered for sale or circulation or imported from outside or possessed for commercial purposes forged products or materials with forged industrial design or model with his knowledge of the same, when the invention, design or model was registered in Libya.

4- Anyone who illegally places on products, advertisements, trademarks, packing instruments or otherwise, any data that may lead to the belief that he owned the invention patent, or the registration of an industrial design or model.

LITHUANIA: Article 195 of the Criminal Code, Law No. VIII-1968 of 26/09/2000 as last amended on 02/07/2010

Article 195. Violation of Industrial Property Rights

1. A person who violates the exclusive rights of a patent owner or a design owner or the right of a legal entity to the legal entity's name shall be punished by a fine or by arrest or by imprisonment for a term of up to two years.

2. A legal entity shall also be held liable for an act provided for in this Article.

LUXEMBOURG:

No provision on criminal sanctions for patent infringement in the Law of 20/07/1992 as last amended on 18/04/2004

MADAGASCAR: *Article 41 of the Ordinance No. 89-019 Establishing Arrangements for the Protection of Industrial Property of 31/07/1989*

41.—(1) Any infringement of the rights under a patent or an inventor's certificate shall constitute an offense punishable by imprisonment of between six months and three years and a fine of between MGF 500,000 and 10,000,000 or one of those penalties only.

(2) In the event of a repeated offense, the penalty shall be doubled.

MALAWI:

No provision on criminal sanctions for patent infringement in the Patents Act, Chapter 49:02 of 1957 as last amended on 08/04/1986

MALAYSIA:

No provision on criminal sanctions for patent infringement in the Patents Act 1983, Act 291 of 1983, as last amended by Act No. A1264 of 2006

MALI:

No provision on criminal sanctions for patent infringement in the Law on the Protection of Industrial Property No. 87-18/AN-RM of 09/03/1987

MALTA:

No provision on criminal sanctions for patent infringement in the Patents and Designs Act (Chapter 417) of 01/06/2002 as last amended by Legal Notice No. 426 of 2007

MAURITIUS:

No provision on criminal sanctions for patent infringement in the Criminal Code, Cap 195 of 29/12/1838 as last amended by Act No. 24/06 and in the Patents, Industrial Designs and Trademarks Act of 2002

MEXICO: *Articles 213 XI, XII, XIII and XIV and 223 I of the Industrial property Law as last amended on 09/04/2012*

Artículo 213.- Son infracciones administrativas:

XI.- Fabricar o elaborar productos amparados por una patente o por un registro de modelo de utilidad o diseño industrial, sin consentimiento de su titular o sin la licencia respectiva;

XII.- Ofrecer en venta o poner en circulación productos amparados por una patente o por un registro de modelo de utilidad o diseño industrial, a sabiendas de que fueron fabricados o elaborados sin consentimiento del titular de la patente o registro o sin la licencia respectiva;

XIII.-Utilizar procesos patentados, sin consentimiento del titular de la patente o sin la licencia respectiva;

XIV.-Ofrecer en venta o poner en circulación productos que sean resultado de la utilización de procesos patentados, a sabiendas que fueron utilizados sin el consentimiento del titular de la patente o de quien tuviera una licencia de explotación;

Artículo 223.- Son delitos:

I. Reincidir en las conductas previstas en las fracciones II a XXII del artículo 213 de esta Ley, una vez que la primera sanción administrativa impuesta por esta razón haya quedado firme;

MONACO: *Articles 44 to 48 of the Patents Law No. 606 of 20/06/1955*

Article 44 .- Toute atteinte portée aux droits du breveté, soit par la fabrication de produits, soit par l'emploi de moyens faisant l'objet de son brevet, constitue le délit de contrefaçon. Ce délit sera puni d'une amende de 24 000 à 480 000 F.

Article 45 .- Ceux qui auront sciemment recélé, vendu ou exposé en vente, ou introduit sur le territoire monégasque, un ou plusieurs objets contrefaits, seront punis des mêmes peines que les contrefacteurs.

Article 46 .- Dans le cas de récidive, il sera prononcé, outre l'amende portée aux articles 44 et 45, un emprisonnement d'un mois à six mois.

Il y a récidive lorsqu'il a été rendu contre le prévenu dans les cinq années antérieures, une première condamnation pour un des délits prévus par la présente loi.

Un emprisonnement d'un mois à six mois pourra aussi être prononcé, si le contrefacteur est un ouvrier ou un employé ayant travaillé dans les ateliers ou dans l'établissement du breveté ou si le contrefacteur, s'étant associé avec un ouvrier ou un employé du breveté, a eu connaissance, par ce dernier, des procédés décrits au brevet.

Dans ce dernier cas, l'ouvrier ou l'employé pourra être poursuivi comme complice.

Article 47 .- L'action correctionnelle pour l'application des peines ci-dessus ne pourra être exercée par le Ministère public que sur la plainte de la partie lésée.

Article 48 .- Le tribunal correctionnel, saisi d'une action pour délit de contrefaçon, statuera sur les exceptions qui seraient tirées par le prévenu, soit de la nullité ou de la déchéance du brevet, soit des questions relatives à la propriété dudit brevet.

MONGOLIA: *Article 141 of the Criminal Code of 2002*

Article 141. Infringement upon the inventor, industrial design, rationalization proposal or patent holder's rights

141.1. Dissemination of the invention, industrial design or rationalization proposal prior to obtaining of the respective certificate by the author, issue under one's own name, publicizing these without the author's permission, forcing to co-authorship, or causing of damage in a large amount in other forms shall be punishable by a fine equal to 100 to 250 amounts of minimum salary or by incarceration for a term of more than 3 to 6 months.

MONTENEGRO: *Article 119 of the Law on Patents of 31/10/2008*

18. PENAL PROVISIONS

Article 119

(1) Any company, other legal entity or entrepreneur who without authorisation engages in representation in realization of rights under this Law shall be fined for the misdemeanor in the amount equal to 20-200 times the amount of minimal salary in Montenegro (Article 4).

(2) For any activities referred to in paragraph 1 of this Article, a responsible person in the company or other legal entity or a natural person shall for the misdemeanor in the amount equal to 1-10 times the amount of minimal salary in Montenegro.

MOROCCO: *Articles 213 to 217 of the Law No. 97-17 on the Protection of Industrial Property of 15/02/2000 as last amended by Law No. 31-05*

213. Any deliberate violation of the rights of a patent owner, as defined in Articles 53 and 54 above, shall constitute infringement and shall be punishable by two to six months' imprisonment and a fine of 50,000 to 500,000 dirhams, or by only one of these two penalties. In the case of recidivism, the penalties may be doubled.

Recidivism shall be deemed to have occurred under this Article where a conviction for identical acts handed down against the accused within the past five years has become irrevocable.

The court may also order the destruction of the known infringing articles which are the property of the infringer, as well as that of the devices or means specifically intended for carrying out the infringement.

214. Those who have knowingly received, displayed, placed on sale or sold, introduced or exported known infringing goods, shall be liable to the same penalties as the infringers. The same shall apply to any assistance knowingly provided to the author of the offenses referred to above.

215. The penalties provided for under Articles 213 and 214 above shall be increased to six months to two years' imprisonment and a fine of 100,000 to 500,000 dirhams, or to only one of these two penalties, if the infringer is a salaried employee who has worked in the workshops or in the establishment of the patent.

Salaried workers who have associated themselves with the infringer after giving him information on the processes described in the patent shall be liable to the same penalties. Salaried employees may be prosecuted in accordance with the provisions of Article 447 of the Penal Code.

216. Without prejudice to the penalties provided for by special laws, the following shall be punishable by a fine of 50,000 to 500,000 dirhams: those who, either through speeches or conferences in public places or meetings, or through writings, leaflets sold or distributed, placed on sale or displayed in public places or meetings, either through signs or posters in the public eye, have provided all information, indications or descriptions of any kind concerning invention patents or certificates of addition deriving from a main patent, or layout designs (topographies) for integrated circuits, a request for which has been filed by them or by another party, but which have not yet been issued.

In the case of recidivism, a sentence of three months to two years' imprisonment shall be handed down, in addition to the fine.

217. Without prejudice, where applicable, to the more stringent penalties concerning violations of State security, anyone who knowingly infringes one of the prohibitions laid down in Article 42 above shall be punishable by a fine of 100,000 to 500,000 dirhams. Where the violation is detrimental to national defense, a sentence of one to five years' imprisonment may also be handed down.

MOZAMBIQUE: *Article 175 of the Industrial Property Code, approved by Decree No. 04/2006 of 12/04/2006*

Article 175 Infringement of exclusive rights in a patent

1. A person who does any of the following commits the offence of infringement of the exclusive rights conferred by a patent:

- a) Produces goods that are the subject of a patent for invention or utility model without authorisation from the proprietor thereof;
- b) Uses the product or process that is the subject of a patent without permission from the lawful proprietor;
- c) Exports or imports, puts on sale or into circulation or conceals in bad faith products obtained in any of the ways referred to in the preceding subparagraphs;
- d) Discloses a patent for invention without permission from the lawful proprietor.

2. The offence in the preceding paragraph is punishable by a fine of eighty nine times the minimum wage, if the offender is an individual, and two hundred times the minimum wage, if the offender is a corporate entity.

NAURU:

No provision on criminal sanctions for patent infringement in the Patents Registration Act of 1973

NEPAL: *Section 11 of the Patent, Design and Trade Mark Act, 2022 (1965), as last amended on 24/11/2006*

11. Penalty for violation of Section 3: A person, who commits any of the acts, shall be fined as per gravity of offense by the order of the Department and the goods or commodities related to the offense shall be confiscated:

- (a) A fine of upto Five Hundred Thousand Rupees for committing an offense mentioned in Sub-section 2 of Section 3.
- (b) A fine of up to Two Hundred and Fifty Thousand (Two lac fifty thousand) Rupees for committing an attempt or abetment of an offense mentioned in Sub-section (2) of Section 3 .

NETHERLANDS: *Article 79 of the Patents Act of 15/12/1994 (Text as it applies on: 03/06/2009)*

Article 79

1. Any party who deliberately infringes the rights of the patent holder by performing one of the acts specified in Article 53(1) shall be punished by means of imprisonment for no more than six months or by means of a fine in the fourth category.
2. Any person who makes a profession or a business of the criminal acts referred to in the preceding paragraph shall be punished by means of imprisonment for no more than four years or by means of a fine in the fifth category.
3. The court may order that its judgment be published.
4. If any objects have been forfeited, the patent holder may demand that those objects be surrendered to him, provided that he applies to the court registry in that respect within one month after the judgment has become final and has acquired the force of *res judicata*. Such surrender shall confer title to these objects on the patent holder. The court may declare that the surrender shall take place only after compensation, to be set by the court and paid by the patent holder, has been paid to the State.
5. The criminal acts referred to in this Article are misdemeanours. In the Netherlands, such misdemeanours shall be heard in the first instance exclusively by the District Court of The Hague.

NEW ZEALAND:

No provision on criminal sanctions for patent infringement in the Patents Act of 26/11/1953 (reprinted as at 1 January 2011) nor in the Criminal Procedure Act 2011 (reprint as at 1 January 2014)

NICARAGUA: *Article 132 (a), (e) and (f) of the Law No. 354 of 21/11/2000, Law on Patents, Utility Models and Industrial Designs as last amended by Law No. 634 of 13/09/2007*

132. Any person shall be punished with imprisonment for a term of four to six years and a fine equivalent to 8,000 Central American pesos who:

- (a) willfully falsifies on a commercial scale;
- (e) manufactures goods that are patented or protected by utility model or industrial design registrations, or who uses patented processes without the consent of the owner thereof, or who acts without any license or authorization;
- (f) imports, distributes or markets goods covered by a patent or protected by utility model or industrial design registrations in the knowledge that they have been manufactured or produced without the consent of the owner thereof or without any license or authorization.

NIGERIA:

No provision on criminal sanctions for patent infringement in the Patents and Designs Act of 1971 (Chapter 344) as last amended in 1970

NORWAY: *Section 57 of the Patents Act No. 9 of 15/12/1967, as amended up to Act No. 8 of 01/07/2010*

Section 57. Anyone who intentionally infringes the exclusive right conferred by a patent (patent infringement), or who is an accessory thereto, shall be penalized by fine or imprisonment for a term not exceeding three months.

Public prosecution shall only take place at the request of the plaintiff.

OMAN: *Section 93 of the Royal Decree No. 67/2008 on Industrial Property Rights and their Enforcement for the Sultanate of Oman of 12/05/2008*

Section 93

(1) The Court shall have the authority to apply remedies that include sentences of imprisonment from a minimum of three (3) months up to a maximum of 2 (two) years as well as monetary fines from a minimum of 2,000 up to a maximum of 10,000 Riyals. In case of reincidence, the Court shall have the authority to double those remedies. In determining the remedies, the Court shall take into account that those remedies must be sufficient to provide a deterrent to future infringements, consistent with a policy of removing the infringer's monetary incentive;

(2) fine or imprison, in appropriate cases, a party to a litigation who fails to abide by valid orders issued by such authorities; and

(3) impose sanctions on parties to a litigation, their counsel, experts, or other persons subject to the court's jurisdiction, for violation of judicial orders regarding the protection of confidential information produced or exchanged in a proceeding

PAKISTAN:

No provision on criminal sanctions for patent infringement in the Patents Ordinance of 2000 as last amended in 2002

PANAMA: *Articles 164 1), 2), 3) and 4) and 165 of the Law No. 35 of May 10, 1996, on Industrial Property as last amended by Law N° 61 of 05/10/2012*

Artículo 164. Del uso indebido de una patente de invención, modelo de utilidad, modelo o dibujo industrial, marca, nombre comercial, expresión o señal de propaganda, indicación geográfica, indicación de procedencia y denominación de origen, son responsables el fabricante, el introductor, el expendedor y todas las personas que, de una u otra forma, hayan participado hasta su comercialización. Por consiguiente, incurrirán en uso indebido de Derechos de Propiedad Industrial:

1. Los que fabriquen o elaboren productos amparados por una patente de invención o un registro de modelo de utilidad, sin consentimiento de su titular o sin la licencia respectiva;

2. Los que ofrezcan en venta, o pongan en circulación, productos amparados por una patente de invención o por un registro de modelo de utilidad, a sabiendas de que fueron fabricados o elaborados sin consentimiento del titular de la patente o registro, o sin la licencia respectiva;

3. Los que utilicen procesos patentados sin consentimiento del titular de la patente, o sin la licencia respectiva;
4. Los que ofrezcan en venta, o pongan en circulación, productos que sean resultados de la utilización de procesos patentados, a sabiendas de que fueron utilizados sin el consentimiento del titular de la patente o de quien tenga licencia de explotación;
5. Los que fabriquen, importen, vendan; ofrezcan en venta o pongan en circulación productos que reproduzcan o incorporen modelos o dibujos industriales protegidos o cuya apariencia ofrezca una impresión general igual a la del modelo o dibujo industrial protegido, sin el consentimiento de su titular o sin la licencia respectiva;

Artículo 165. El juez aplicará, al que incurra en los actos que se describen en el artículo anterior, una o varias de las siguientes sanciones en atención a la gravedad de la acción incurrida:

1. Multa de diez mil balboas (B/.10,000.00) a doscientos mil balboas (B/.200,000.00). Esta multa se aplicará tanto a los infractores de las normas de este Capítulo, como a sus cómplices o encubridores.

Cuando se trate de empresa que opere en la Zona Libre de Colon o zona franca existente en Panamá, la multa será equivalente al 25% del movimiento comercial mensual de la empresa; sin embargo, la multa, en ningún momento, será inferior a setenta y cinco mil Balboas (B/75,000.00);

2. Suspensión del derecho a ejercer el comercio o explotar industrias, por un periodo de tres meses;

3. Suspensión o cancelación de la clave o permiso de operación, otorgado por la administración de la Zona Libre de Colon o zona franca existente en Panamá. En el caso de suspensión, esta se aplicará por un periodo mínimo de tres meses.

En caso de reincidencia, las sanciones contempladas en los numerales 2 y 3 del presente artículo se aplicarán por un período de un año, y la sanción contemplada en el numeral 1 podrá ser hasta cuatro veces la multa máxima allí establecida, sin perjuicio de lo dispuesto en la ley que regule la explotación del comercio y la industria.

Cuando se trate de productos falsos, el tribunal civil competente ordenará la destrucción de las mercaderías que haya determinado son falsificadas, sin compensación alguna, a menos que el titular del derecho consienta en que se disponga de ellas de otra forma fuera de los canales comerciales. Las mercancías de marcas falsificadas podrán ser donadas con fines de caridad para uso fuera de los canales de comercio, cuando la remoción de la marca elimine las características infractoras de la mercancía y esta ya no sea identificable con la marca removida. La simple remoción de la marca adherida ilegalmente no será suficiente para permitir que las mercancías ingresen en los canales comerciales.

El tribunal será competente para ordenar la destrucción de la maquinaria utilizada en la vulneración del derecho marcario, pero deberá considerar entre otros factores, la gravedad de la infracción, así como el interés de terceras personas, titulares de derechos reales, de posesión, o de un interés contractual o garantizado.

PAPUA NEW GUINEA: *Article 61 of the Patents and Industrial Designs Act of 01/07/2000*

61. GENERAL PENALTY.

(1) A person who -

(a) does an act or thing that the person is prohibited to do by or under a provision of this Act;
or

(b) does not do an act or thing that the person is required or directed to do by or under a provision of this Act; or
(c) otherwise contravenes a provision of this Act;
is guilty of an offence by virtue of this subsection, unless that or another provision of this Act provides that the person -
(d) is guilty of an offence; or
(e) is not guilty of an offence.

(2) A person who is guilty of an offence against this Act, whether by virtue of Subsection (1) or otherwise, is punishable, on conviction, by a penalty not exceeding the penalty applicable to the offence.

(3) Where a provision of this Act (other than this section) provides that the penalty applicable to a contravention of a particular provision of this Act is a specified penalty, pecuniary or otherwise, the penalty applicable to an offence constituted by a contravention of the particular provision is the specified penalty.

(4) Except as provided in Subsection (3) or in a provision of this Act (other than this section), a person who commits an offence is liable on conviction to a fine not exceeding K5,000.00.

PARAGUAY:

No provision of law on criminal sanction for patent infringement in the Law No. 1.630/2000 on Patents as last amended by Law No. 2.593/2005 and Article 184 (1), (3) 2), (4) and (5) of the Criminal Code, Law N° 1.160/97

PHILIPPINES: Section 84 of the Intellectual Property Code of the Philippines, Republic Act No. 8293 of 06/06/1997 as last amended by Act No. 10372 of 28/02/2013

SECTION 84. Criminal Action for Repetition of Infringement. — If infringement is repeated by the infringer or by anyone in connivance with him after finality of the judgment of the court against the infringer, the offenders shall, without prejudice to the institution of a civil action for damages, be criminally liable therefor and, upon conviction, shall suffer imprisonment for the period of not less than six (6) months but not more than three (3) years and/or a fine of not less than One hundred thousand pesos (P100,000) but not more than Three hundred thousand pesos (P300,000), at the discretion of the court. The criminal action herein provided shall prescribe in three (3) years from date of the commission of the crime. (Sec. 48, R.A. No. 165a)

PORTUGUAL: Articles 321 and 341 of the Industrial Property Code (consolidated as of 2008)

Article 321

VIOLATION OF PATENT EXCLUSIVITY, THE UTILITY MODEL OR THE SEMICONDUCTOR TOPOGRAPHY

The following acts, carried out without the consent of the holder of the respective right, are punishable by a prison sentence of up to three years or a fine of up to three hundred and sixty days:

a) Manufacture of artefacts or products that are covered by the patent, the utility model or the semiconductor topography;

- b) Use or application of means or processes that are the object of the patent, the utility model or the semiconductor topography;
- c) Import or distribution of products obtained through any of the aforementioned methods.

Article 341

INTERVENING PARTIES

In addition to the persons upon which the criminal proceedings laws confer the right of joining proceedings as intervening parties, legally constituted entrepreneurial associations also have legitimacy to intervene in this capacity in the criminal proceedings provided for in this code.

QATAR: Article 24 of the Decree Law No. 30 for the year 2006 To Issue Patents Law

Article 24

Without prejudice to any tougher penalties prescribed by other laws, a penalty of not more than two years imprisonment and a fine not exceeding ten thousand Qatari Riyals, or either of the two penalties, shall be levied on whoever offers or gives incorrect or false information to obtain a patent, or whoever counterfeits an invention or a manufacturing technique, or intentionally trespasses on a right protected by the law hereby.

The court may judge by confiscating or destroying the seized objects and the tools and instruments used in counterfeiting.

REPUBLIC OF KOREA: Articles 225, 230, 231 and 232 of the Patent Act (Act No. 950 of 31/12/1961, as last amended by Act No. No. 11654 of 22/03/2013

Article 225 (Offense of Infringement)

(1) Any person who infringes a patent right or exclusive license shall be punished by imprisonment not exceeding seven years or by a fine not exceeding 100 million won.

(2) Prosecution for offenses under paragraph (1) shall be initiated upon filing of a complaint by an injured party.

Article 230 (Joint Penal Provisions)

If a representative of a juristic person, or an agent, an employee or any other employed person of a juristic person or individual has committed an offense under Articles 225 (1), 228 or 229 with respect to the duties of the juristic person or individual, not only shall the offender be punished, but also the juristic person shall be punished by a fine under any of the following subparagraphs and the individual shall be punished by a fine referred to in the relevant provisions: Provided, That this shall not apply to cases where the juristic person or individual has not been negligent in giving due attention and supervision concerning the relevant duties to prevent such offense:

1. Cases referred to in Article 225 (1): A fine not exceeding 300 million won;
2. Cases referred to in Article 228 or 229: A fine not exceeding 60 million won.

Article 231 (Confiscation, etc.)

(1) Any article that is the subject of an infringing act under Article 225 (1), or any article arising out of such act, shall be confiscated or, upon request of the injured party, a judgment shall be rendered to the effect that such article shall be delivered to the injured party.

(2) Where the article is delivered to the injured party under paragraph (1), the person may claim compensation for losses in excess of the value of the article.

Article 232 (Fines for Negligence)

(1) Any person falling under any of the following subparagraphs shall be punished by a fine for negligence not exceeding 500,000 won:

1. Where a person who has taken an oath under Articles 299 (2) and 367 of the Civil Procedure Act has made a false statement before the Intellectual Property Tribunal;
2. Where a person was ordered by the Intellectual Property Tribunal to submit or show documents or other materials with respect to taking evidence or to the preservation of evidence, and has failed to comply with the order without justifiable grounds;
3. Deleted; <by Act No. 7871, Mar. 3, 2006>
4. Where a person was summoned by the Intellectual Property Tribunal as a witness, expert witness or interpreter and has failed to comply with the subpoena, or has refused to take an oath, to make a statement, to testify, to give an expert opinion or to interpret, without justifiable grounds.

(2) Fines for negligence referred to in paragraph (1) shall be imposed and collected by the Commissioner of the Korean Intellectual Property Office, as prescribed by Presidential Decree.

REPUBLIC OF MOLDOVA:

No provision of law on criminal sanctions for patent infringement in the Law on the Protection of Inventions No. 50-XVI of March 7, 2008 nor in the Penal Code of Republic of Moldova No. 985-XV of April 18, 2002 (as amended through Law № 56 of April, 4, 2014) as last amendment on April 4, 2014

ROMANIA: *Articles 59 and 60 of the Patent Law No.64/1991 as republished on Official Gazette of Romania, Part I, no. 541/ 8 august 2007*

Art. 59 - The acts performed as a violation of Art. 32, paragraph 2 shall constitute infringement and shall be punished with imprisonment from 6 months to 2 years or with fine from 10000 to 30000 lei.

Criminal proceedings shall be initiated ex officio.

For prejudice caused to him, the patent owner or licensee shall be entitled to damages, as provided for by civil law, and may request to the competent law court to order the infringing products to be confiscated or destroyed, as the case may be. The same provisions shall be applied to materials and equipments that directly served to the perpetration of the infringement offence.

Infringement of the rights referred to in Art. 32, paragraph 1 by third parties, after the publication of the patent application shall make the infringers liable for damages under civil law, and the entitlement to the payment of damages shall be enforceable after the grant of the patent.

Notwithstanding the provisions of Art. 32, paragraph 1, the acts referred to in Art 32, paragraph 2 performed by third parties before the date of publication of the patent application or before the date of the summons made by the applicant and accompanied by a certified

copy of the patent application shall not be deemed to infringe the rights conferred by the patent.

Art. 60 - Where the acts referred to in Art. 32, paragraph 2 continue to be done after summoning, the law court may, upon request, order such acts be discontinued until OSIM makes a decision on the patent application. Said measure may be ordered subject to payment by the applicant of a security fixed by the law court.

RUSSIAN FEDERATION: Article 147 of the Criminal Code No. 63-FZ of 13/06/1996 as last amended on 01/03/2012

Article 147. Violation of Inventor's Rights and Patent Rights

1. Illegal use of an invention, useful model, or industrial design, disclosure of the essence of an invention, useful model, or industrial design, without the consent of its author or applicant, and before the official publication of information about them, the illegal acquisition of authorship, or the compelling of co-authorship, if these acts have inflicted damage to a person, shall be punishable with a fine in an amount of up to 200 thousand roubles, or in the amount of a wage/salary, or any other income of the convicted person for a period of up to 18 months, or by obligatory labour for a term of up to four thousand and eighty hours, or by compulsory works for a term of up to two years, or by deprivation of liberty for the same term.

2. The same deeds committed by a group of persons by previous concert or by an organised group, shall be punishable with a fine in an amount of from 100 thousand to 300 thousand roubles, or in the amount of the wage or salary, or any other income of the convicted person for a period of up to eight months, or by arrest for a term of from one to two years, or by compulsory labour for a term of up to five years, or by deprivation of liberty for a term of up to five years.

On Judicial Practice of Examination of Criminal Cases on Infringement of Copyrights, Associated Rights, Inventor's Rights and Patent Rights and Also on Illegal Use of the Trademark, see Decision of the Plenum of the Supreme Court of the Russian Federation No. 14 of April 26, 2007

RWANDA: Articles 261 to 263 of the Law No. 31/2009 of 26/10/2009 on the Protection of Intellectual Property

Article 261: Act of forgery

Subject to the provisions of this Law, any industrial or commercial use, in the Republic of Rwanda, of an invention, utility model, industrial design and model, mark or other distinctive sign of business, trade name, geographical indication or layout design integrated circuit, which is the subject of a protection title granted under this Law and made by any person other than the owner of the title and without his or her consent, shall constitute an act of forgery.

Any infringement of copyrights or related rights protected under this Law, committed willfully or by gross negligence, by any third person for profit-making purposes and without owner's right consent shall constitute an act of forgery.

Any third person, who knowingly sells, offers on sale, is making rent, detains or introduces on the territory of the Republic of Rwanda, the alleged infringing goods for commercial purposes, shall be considered as committing the same offence.

Article 262: Proceedings against an act of forgery

On a request by the owner of the protected right, the competent tribunal shall order the infringer to pay the right owner damages and adequate compensation for the infringement of his or her intellectual property right provided that the infringer acted knowingly or with reasonable grounds to know of the infringement.

For an industrial property title, the request for the competent tribunal to order the payment of damages may be filed only after the protection title of industrial property right in question is granted and shall relate to acts of infringement practiced at the filing date of the application of industrial title or subsequent to this date.

Article 263: Criminal penalties for an act of forgery of industrial property title

Any person who knowingly performs an act constituting an infringement under paragraph one and paragraph three(3) of article 261 of this Law, or an unlawful act as per paragraph one of article 5, paragraph three (3) of article 164 and articles 180 to 185 of this Law, shall commit an offence and shall be liable to a maximum fine of fifty thousand Rwandan Francs (50.000) to five hundred millions Rwandan Francs (500.000.000) or a maximum term of imprisonment of five (5) years, or one or both of penalties.

Any person who steals or uses by fraudulent manner a formula of invention in any industrial activity shall be punished of an active confinement of one to five (5) years and a fine of five to ten times the value of profits attributable to the infringement.

In addition to criminal penalties, the competent tribunal may also order the seizure, confiscation and destruction of the incriminating items and of all materials or instruments used mainly for the crime to be committed.

SAINT KITTS AND NEVIS: *Section 62 (1) of the Patents Act (Cap. 18.25) of 31/12/2002*

62. Offences.

(1) Any person who intentionally or wilfully performs an act which constitutes an infringement as defined under section 40 of this Act commits an offence, and is liable to a fine of not less than fifteen thousand dollars and not more than forty thousand dollars, or to imprisonment for a term of not less than five years and not more than twelve years, or both.

SAINT LUCIA:

No provision of law on criminal sanctions for patent infringement in the Patents Act of 27/08/2001

SAINT VINCENT AND THE GRENADINES

No provision of law on criminal sanctions for patent infringement in the Patents Act, Act No. 39 of 2004

SAMOA: *Article 125 of the Intellectual Property Act of 11/10/2011*

125. Infringement-

(1) On the request of the owner of the right or the title of protection, or of a licensee if the licensee has requested the owner to institute court proceedings for specific relief and the owner has refused or failed to do so, the court may grant an injunction to prevent

infringement, an imminent infringement, or an unlawful act and may award damages and grant any other remedy provided for in the general law.

(2) Any person who knowingly performs an act which constitutes an infringement in relation to any trade mark right or protection accorded by this Act, if committed wilfully or by gross negligence and for profit-making purposes, commits an offence and is liable on summary conviction to a fine of 1,000 penalty units or to imprisonment not exceeding five (5) years or both.

(3) For the purposes of proceedings, other than criminal proceedings, in respect of the violation of the rights of the owner of a patent or innovation patent, if the subject matter of the patent or innovation patent is a process for obtaining a product, the burden of establishing that a product was not made by the process is on the alleged infringer if either of the following conditions is fulfilled:

(a) the product is new;

(b) a substantial likelihood exists that the product was made by the process and the owner of the patent or innovation patent has been unable through reasonable efforts to determine the process actually used.

(4) In requiring the production of evidence, the court before which the proceedings referred to in subsection (3) takes place must take into account the legitimate interests of the alleged infringer in not disclosing manufacturing and business secrets.

SAN MARINO:

No provision of law on criminal sanctions for patent infringement in the Law No. 79 of 25 May 2005 - Industrial Property Consolidation Act

SAO TOME AND PRINCIPE:

No provision of law on criminal sanctions for patent infringement in the Law No. 4/2001 of 31/12/2001 on Industrial Property

SAUDI ARABIA:

No provision of law on criminal sanctions for patent infringement in the Law of Patents, Layout-Designs of Integrated Circuits, Plant Varieties, and Industrial Designs, Decree No. M/27 of 29/5/1425H of 17/07/2004

SENEGAL:

No provision of law on criminal sanctions for patent infringement in the Penal Code, Law No. 65-60 of 21/07/1965

SERBIA: *Article 201 (1), (2) and (5) of the Criminal Code of 29/12/2009*

Violation of Patent Rights
Article 201

(1) Whoever without permission produces, imports, exports, offers for circulation, puts into circulation, stores or uses for commercial operations a patented product or procedure, shall be punished with a fine or imprisonment up to three years.

(2) If the offence referred to in paragraph 1 results in material gain or damage in an amount exceeding one million dinars, the offender shall be punished with imprisonment from one to eight years.

(5) The things referred to in paragraphs 1 and 2 shall be seized and destroyed.

SEYCHELLES: *Sections 118 (1) and 119 of the Industrial Property Act, Act No. 7 of 2014*

Offence 118.

(1) Any person who, except under justifiable circumstances provided under this Act, without the consent of a patent or utility model rightsholder, willfully and on a commercial scale-

(a) manufactures the product that is protected by a patent or utility model certificate;

(b) uses a process invention or minor invention that is patented or protected by utility model certificate;

(c) exports, sells, displays or offers for sale, has in stock, conceals or receives, a product manufactured using a patented invention or minor invention protected by utility model certificate, or a product obtained by a patented process invention; or

(d) imports a product that is the object of an invention or minor invention protected by patent or utility model certificate, or obtained by a process invention patented into Seychelles that has not been placed on the foreign market directly by the rightsholder or by a person authorised by the rightsholder, commits an offence.

Penalties 119 .

(1) Whoever intentionally commits an offence under section 118, shall on conviction be liable to imprisonment for a term not exceeding 5 years or a fine not exceeding SCR 500,000 or with both such imprisonment and fine.

(2) Except where higher penalty is provided in any other written law, whoever by negligence violates a right protected under this Act shall on conviction be liable to imprisonment for a term not exceeding 3 years or a fine not exceeding SCR 500,000 or with both such imprisonment and fine.

(3) In determining the penalties under subsections (1) to (2), the court shall take into account the-

(a) severity of the damage caused to the rightsholder, consumers, the general public or the country;

(b) the value of the infringing products;

- (c) degree and scope of the infringing activity and the size of the infringing products;
- (d) frequency of the offence committed by the infringer; and
- (e) other relevant matters, such as sufficiency of the penalty to provide a deterrent to future infringements.

(4) The penalty, where appropriate, shall include the seizure, forfeiture and destruction of infringing goods and of any materials and implements used in the commission of the offence.

(5) The seizure, forfeiture and destruction referred to in subsection (4) shall be without compensation of any kind to the offender.

SIERRA LEONE: *Section 73 of the Patents and Industrial Design Act, Act No. 10 of 2012*

Criminal proceedings

73. Any person who knowingly does anything which constitutes an infringement as defined in section 71 commits an offence and is liable on conviction to a fine not exceeding Le 60,000,000.00 or to imprisonment for a term not exceeding one year or to both the fine and imprisonment.

SINGAPORE:

No provision of law on criminal sanctions for patent infringement in the Patents Act, Revised Edition 2005, as last amended by the Statutes Act 2014

SLOVAKIA: *Section 282 of the Criminal Code, Act No. 300/2005*

Section 282

Infringement of industrial rights

(1) A person who infringes the rights to patent, utility model, design, topography of semiconductor or accepted plant variety or animal breed shall be liable to a term of imprisonment of up to 3 years.

(2) A person who committed a criminal offence under the paragraph (1)

a) and caused a significant damage, or by

b) serious manner of the act

shall be liable to a term of imprisonment of 1 to 5 years.

(3) A person who committed a criminal offence under the paragraph (1)

a) and caused a damage of large scale, or

b) as a member of an organised crime group

shall be liable to a term of imprisonment of 3 to 8 years.

SLOVENIA: *Article 234 of the Criminal Code (KZ-1) of 01/09/2008*

Unauthorised Use of Another's Patent or Topography
Article 234

(1) Whoever, in performing business operations, uses a patent protected by another person without due authorisation or additional protection certificate, or a registered topography of the circuit of a semiconductor, or a new plant variety, protected by a plant variety right, shall be punished to imprisonment up to three years.

(2) Products manufactured on the basis of unauthorised use from the preceding paragraph shall be seized.

SOUTH AFRICA:

No provision of law on criminal sanctions for patent infringement in the Patents Act, Act No. 57 of 1978 as last amended by the Act No. 20 of 2005

SOUTH SUDAN: *Section 50 of the Patent Law No. 58 of 1971*

50. Penal Sanctions:

(1) Any intentional infringement of the rights of a registered owner of a patent under Sections 21 and 22 shall constitute an offense.

(2) Such offense shall be punishable by a fine not exceeding one thousand Pounds or by imprisonment not exceeding one year, or both. The maximum penalties shall be doubled in the event of recidivism, i.e. when, in the course of the five preceding years, the offender has been convicted of another infringement of a patent.

SPAIN: *Article 534 of the Criminal Code*

Article 534. Whoever willfully infringes industrial property rights shall be liable to 'major detention (arresto mayor) and a fine of 30,000 to 600,000 pesetas.'

SRI LANKA: *Section 22 (g) and 181 of the Intellectual Property Act, No. 36 of 2003*

22. Enforcement of Rights and Disputes Resolution

(g) Any person who infringes or attempts to infringe any of the rights protected under this Part shall be guilty of an offence and on conviction be liable to any penalty as provided for in Chapters XXXVIII and XLI of the Act.

Infringement of Patents

181. Any person who wilfully infringes the rights of any registered owner, assignee or licensee of a patent shall be guilty of an offence, and shall be liable on conviction after trial before a Magistrate to a fine not exceeding five hundred thousand rupees or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment, and in the case of a second or subsequent conviction to double the amount of such fine or term of imprisonment or both.

SUDAN: *Section 50 of the Patent Law No. 58 of 1971*

50. Penal Sanctions:

(1) Any intentional infringement of the rights of a registered owner of a patent under Sections 21 and 22 shall constitute an offence.

(2) Such offence shall be punishable by a fine not exceeding one thousand Pounds or by imprisonment not exceeding one year, or both. The maximum penalties shall be doubled in the event of recidivism, i.e. when, in the course of the five preceding years, the offender has been convicted of another infringement of a patent.

SWAZILAND: *Section 32 (1), (2) and (3) of the Patents, Utility Models and Industrial Designs Act of 04/09/1997*

Infringement, unlawful acts, offences.

32. (1) Subject to sections 12 (4) and (6), 14, and 24 (3), an infringement shall consist of the performance of any act referred to in section 12 and 23 in Swaziland by a person other than the owner of the title of protection and without the agreement of the latter.

(2) On the request of the owner of the title of protection, or of a licensee if he has requested the owner to institute court proceedings of a specific relief and the owner has refused or failed to do so, the court may grant an injunction to prevent infringement, or an imminent infringement, award damages and grant any other remedy provided for in the Common law.

(3) Any person who performs an act which constitutes an infringement as defined in subsection (1) hereof shall be upon conviction, guilty of an offence punishable by a fine not exceeding ten thousand (E10,000.00) Emalangenji or imprisonment for a term not exceeding five (5) years or both.

SWEDEN: *Article 57 of the Patents Act (1967:837) as last amended on 01/07/2011*

Article 57. If anyone infringes the exclusive right conferred by a patent (patent infringement) and if the act is committed wilfully or with gross negligence, he or she shall be sentenced to fines or imprisonment for not more than two years. Anyone who has violated an injunction issued under penalty of a fine pursuant to Article 57 b, may not be held liable under criminal law for the infringement covered by the injunction. Attempts to commit acts implying violations referred to in the first Paragraph, and preparations for such acts, are punishable pursuant to Chapter 23 of the Criminal Code.

The Public Prosecutor may bring an action for offences referred to in the first or second Paragraph only if the injured party files a complaint and a prosecution is called for in the public interest. (Act 2005:289).

SWITZERLAND: *Articles from 66 to 71 and 81 of the Patents Law of 25/06/1954, as of 01/01/2012*

Art. 66

Est passible de poursuites civiles et pénales, conformément aux dispositions ci-après:

- a. celui qui utilise illicitement l'invention brevetée. L'imitation est considérée comme une utilisation;
- b. celui qui refuse de déclarer à l'autorité compétente la provenance et la quantité des produits fabriqués ou mis en circulation illicitement qui se trouvent en sa possession et de désigner les destinataires et la quantité des produits qui ont été remis à des acheteurs commerciaux.
- c. celui qui, sans le consentement du titulaire du brevet ou de celui qui est au bénéfice d'une licence, enlève le signe du brevet apposé sur un produit ou sur son emballage;
- d. celui qui incite à commettre l'un de ces actes, qui y collabore, en favorise ou facilite l'exécution.

Art. 67

1 Lorsque l'invention se rapporte à un procédé de fabrication d'un produit nouveau, tout produit de même composition sera présumé, jusqu'à preuve du contraire, fabriqué d'après le procédé breveté.

2 L'al. 1 est applicable par analogie au cas d'un procédé de fabrication d'un produit connu, lorsque le titulaire du brevet rend vraisemblable que le brevet a été violé.

Art. 68

1 Les secrets de fabrication ou d'affaires des parties seront sauvegardés.

2 Il ne sera donné connaissance à la partie adverse des moyens de preuve propres à révéler de tels secrets que dans la mesure compatible avec leur sauvegarde.

Art. 69

1 En cas de condamnation, le juge peut ordonner la confiscation et la réalisation ou la destruction des produits fabriqués illicitement ou des instruments, de l'outillage et des autres moyens destinés principalement à leur fabrication.

2 Le produit net de la vente servira d'abord à payer l'amende, puis les frais d'enquête et les frais judiciaires, et enfin à régler la créance, définitivement fixée, de la partie adverse en dommages-intérêts et en couverture de ses frais de procès; l'excédent reviendra à l'ancien propriétaire des objets vendus.

3 Même en cas d'acquiescement ou de rejet de l'action, il peut ordonner la destruction des instruments, de l'outillage et des autres moyens destinés principalement à la violation du brevet.

Art. 70

1 Le juge peut autoriser la partie qui a obtenu gain de cause à publier le jugement aux frais de l'autre partie; il fixe les modalités et le moment de la publication.

2 En matière pénale (art. 81 à 82), la publication du jugement est réglée par l'art. 68 du code pénal.

Art. 70a

Les tribunaux communiquent gratuitement à l'Institut les jugements exécutoires en version intégrale.

Art. 71

Celui qui a intenté une des actions prévues aux art. 72, 73, 74 ou 81 et qui, dans la suite, en se fondant sur un autre brevet, actionne à nouveau la même personne en raison du même acte ou d'un acte analogue, supportera les frais judiciaires et les dépens qu'entraînera le

nouveau procès, à moins qu'il ne rende vraisemblable qu'il n'a pas été en mesure, sans qu'il y ait eu faute de sa part, de faire valoir aussi l'autre brevet dans la procédure antérieure.

Art. 81

1 Celui qui, intentionnellement, commet l'un des actes mentionnés à l'art. 66 est, sur plainte du lésé, puni d'une peine privative de liberté d'un an au plus ou d'une peine pécuniaire.

2 Le droit de porter plainte se prescrit par six mois à compter du jour où le lésé a connu l'auteur de l'infraction.

3 Si l'auteur fait métier de tels actes, la poursuite a lieu d'office. La peine est une peine privative de liberté de cinq ans au plus ou une peine pécuniaire. En cas de peine privative de liberté, une peine pécuniaire est également prononcée.

TAJIKISTAN: *Article 156 of the Criminal Code of the Republic of Tajikistan of 01/09/1998*

Статья 156. Нарушение авторских, смежных прав и прав патента обладателей

1) Выпуск под своим именем чужого научного, литературного, музыкального или художественного произведения, а также чужой программы для ЭВМ или базы данных, либо иное присвоение авторства на такое произведение, присвоение авторства изобретения, а равно принуждение к соавторству,

наказывается штрафом в размере от двухсот до пятисот показателей для расчётов либо исправительными работами сроком на срок до двух лет. (зрт 06.10.08г., №422)

2) Незаконное использование объектов авторского права или смежных прав, а также незаконное использование изобретения, полезной модели или промышленного образца, программы для ЭВМ или базы данных, разглашение без согласия автора или заявителя сущности изобретения, полезной модели или промышленного образца до официальной публикации сведений о них, если эти деяния умышленно или по неосторожности причинило крупный ущерб, наказываются штрафом в размере от пятисот до одной тысячи показателей для расчётов либо ограничением свободы на срок до трех лет или лишением свободы сроком до двух лет. (зрт 06.10.08г., №422)

3) Деяния, предусмотренные частью первой или второй настоящей статьи, совершенные группой лиц по предварительному сговору, наказываются штрафом в размере от одной тысячи до тысяча пятисот показателей для расчётов либо лишением свободы сроком от двух до пяти лет. (зрт 06.10.08г., №422)

Примечание:

Крупным ущербом признается ущерб в одну тысячу раз превышающий показателей для расчётов. (зрт 17.05. 04г.N35); (зрт 06.10.08г., №422)

THAILAND: *Section 86 of the Patent Act B.E. 2522 of 11/03/1979 as last amended on 01/01/1999*

85. Any person who commits any act under Section 36 or 63 without the permission of the patentee shall be punished with imprisonment not exceeding two years or a fine not exceeding four hundred thousand baht or both.

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA: *Article 321 (1) 2) of the Law on Industrial Property of 12/02/2009*

Article 321

- (1) A fine in the amount of EUR 4,000 to 8,000 in denar counter-value shall be pronounced by the court to the legal person for a violation if:
- 2) he is not authorised to use a registered or protected invention (Article 291, paragraph(3));

TIMOR-LESTE:

No provision of law on criminal sanctions for patent infringement in the Penal Code, approved by Decree-Law No. 19/2009

TONGA: *Section 43 (1) and (4) of the Industrial Property Act, Act No. 19 of 1994 as last amended by Act No. 42 of 2002*

43 Infringement, unlawful acts, offences.

(1) Subject to sections 13(4) and (5), 15, 24(3) and 29(3), an infringement shall consist of the performance, in Tonga, by any person other than the owner of the title of protection, without the permission of the owner, of any act referred to in sections 13, 24 and 29.

(4) Any person who performs an act which constitutes an infringement as defined in subsection (1) or an unlawful act as defined in sections 33(2) and (3), and section 34, commits an offence and is liable upon conviction to a fine of T\$5,000 or to imprisonment for a term of 5 years or to both.

TRINIDAD AND TOBAGO:

No provision of law on criminal sanctions for patent infringement in the Patents Act, Act No. 21 of 1996 as last amended by Act No. 18 of 2000

TUNISIA: *Articles 82 and 83 of the Law No. 2000-84 of 24/08/2000, on Patents*

82. Any infringement of the rights of the owner of the patent as specified in Article 46 of this Law shall constitute the offense of infringement..

Infringement shall incur the civil and criminal liability of the infringer.

However, the offering for sale, marketing, use, stocking with a view to use or marketing of an infringing product shall not, where the acts are committed by a person other than the manufacturer of the infringing article, incur the liability of the infringer unless they are performed in full knowledge of the facts.

Acts performed prior to the publication of the patent application shall not constitute the offense of infringement and shall not give rise even to an adverse civil judgment except where they occur subsequently to the serving on the presumed infringer of an official copy of the patent application.

83. Subject to the penalties provided for in special enactments, the offense of infringement shall be punished with a fine of 5,000 to 50,000 dinars.

In the event of a second or subsequent offense, imprisonment for a term of one to six months may be ordered in addition to the fine, which shall be doubled.

The Public Prosecution Service may only initiate prosecution on the basis of a complaint filed by the aggrieved party.

TURKEY:

No provision of law on criminal sanctions for patent infringement in the Decree-Law No. 551 of 24/06/1995 on the Protection of Patent Rights as last amended by the Decision of the Constitutional Court No. 2009/19 of 05/02/2009

TURKMENISTAN: *Article 153 of the Criminal Code number 222-I of 12 June 1997 (as amended November 9, 2013)*

Статья 153. Нарушение авторских и смежных прав, прав патентообладателей
Присвоение авторства, незаконное использование объектов авторских или смежных прав, а равно охраняемых патентом изобретения, полезной модели либо промышленного образца, если они совершены:

- a) повторно в течение одного года после применения административного взыскания за эти правонарушения;
 - b) группой лиц по предварительному сговору,
- наказываются штрафом в размере от пятнадцати до тридцати среднемесячных размеров оплаты труда или исправительными работами на срок до двух лет.

UGANDA:

No provision of law on criminal sanctions for patent infringement in the Patents Act, Chapter 216 of 15/10/1993 as last amended by the Patents Amendment Act of 2002 nor in the Penal Code Act of 1950

UKRAINE: *Article 177 of the Criminal Code of 15/04/2001 (version of 2010)*

Article 177. Violation of industrial property rights

1. Illegal use of an invention, utility model, industrial design, qualified description of product origin, topography of microelectronic integrated circuits, a variety of plants, where such actions caused a significant pecuniary loss, - shall be punishable by a fine of 100 to 400 tax-free minimum incomes, or correctional labor for a term up to two years, with the forfeiture of illegally made products and the equipment and material designated for their production.

2. The same actions, if repeated or where they caused a specially significant pecuniary loss, shall be punishable by a fine of 200 to 800 tax-free minimum incomes, or correctional labor for a term up to two years, or imprisonment for a term up to two years, with the forfeiture of illegally made products and the equipment and material designated for their production.

Note: A significant pecuniary loss is caused, if its amount exceeds 100 tax-free minimum incomes; and an especially significant loss is caused, if its amount exceeds 1,000 tax-free minimum incomes.

UNITED ARAB EMIRATES: *Article 62 of the Federal Law No. 31 for the Year 2006 Pertaining to the Industrial Regulation and Protection of Patents, Industrial Drawings, and Designs*

Article (62)

Without prejudice to the stronger penal actions provided for in other laws, any party submitting false documents or giving incorrect information to obtain a letters patent or a utility certificate shall be sentenced into imprisonment for a period not less than three months and not more than two years and (or) be charged not less than (5,000) Dirhams and not more than (100,000) Dirhams. This shall also be applicable to any party simulating an invention , a manufacture method, an element of practical knowledge, or an industrial drawing or design.

UNITED KINGDOM:

No provision of law on criminal sanctions for patent infringement in the Patents Act of 1977, consolidated version of 01/10/2014

UNITED REPUBLIC OF TANZANIA: *Section 70 of Chapter 217, the Patents (Registration) Act of 1995*

70. Criminal proceedings (1) Any person who intentionally infringes a patent shall be guilty of an offence and shall, on conviction be liable to a fine not exceeding five hundred thousand shillings or to a term of imprisonment of five years or to both that fine and imprisonment and forfeiture of the goods made through that patent.

(2) In the event of recidivism, the maximum penalties shall be doubled.

(3) Recidivism shall be deemed to have occurred within the preceding five years, the offender has been convicted of infringement of a patent.

UNITED STATES OF AMERICA:

No provision of law on criminal sanctions for patent infringement in the Patent Law, 35 U.S.C. §§ 1 et seq. (Consolidated Patent Laws as of May 2014)

URUGUAY: *Articles 106 and 107 of the Law No. 17.164 of 02/09/1999 Regulating Rights and Obligations Relating to Patents, Utility Models and Industrial Designs*

106. Persons who infringe any of the rights protected by patents for inventions, utility models or industrial designs shall be punishable by a term of six months to three years imprisonment.

In all cases, the infringing objects and the tools essentially used to make them shall be confiscated and shall be disposed of in consultation with the National Industrial Property Directorate.

107. The term shall be 15 months to four years imprisonment if the following aggravating circumstances apply:

(a) the person concerned was an employee of the owner of the patent or a licensee;

(b) the person obtained from the former, knowledge of the special methods needed to make the patented object.

UZBEKISTAN: *Articles 66 and 149 of the Criminal Code of the Republic of Uzbekistan (as amended in accordance with the Law of the Republic of Uzbekistan № 93 of 25.04.2007)*

Статья 66-1. Освобождение от уголовной ответственности в связи с примирением

Лицо, совершившее преступление, предусмотренное [...] статьей 149 (нарушение авторских или изобретательских прав), настоящего Кодекса, может быть освобождено от уголовной ответственности, если оно признало свою вину, примирилось с потерпевшим и загладило причиненный вред. Освобождению от уголовной ответственности в связи с примирением не подлежат лица, имеющие непогашенную или неснятую судимость за совершение тяжких или особо тяжких преступлений.

Статья 149. Нарушение авторских или изобретательских прав

Присвоение авторства, принуждение к соавторству на объекты интеллектуальной собственности, а равно разглашение без согласия автора сведений об этих объектах до их официальной регистрации или публикации, -наказывается штрафом от двадцати пяти до семидесяти пяти минимальных размеров заработной платы или лишением определенного права до пяти лет, или исправительными работами до трех лет либо арестом до шести месяцев.

VANUATU:

No provision of law on criminal sanctions for patent infringement in the Patents Act No. 2 of 2003 or in the Penal Code [Cap 135] of 07/08/1981

VENEZUELA: *Article 98 of the Industrial Property Law of 02/09/1955*

Artículo 98.-Los que atenten contra los derechos del legítimo titular o poseedor de una patente, fabricando, ejecutando, transmitiendo o usando con fines industriales y de lucro, sin el consentimiento expreso o tácito de aquel, copias dolosas y fraudulentas del objeto de la patente, serán castigados con prisión de uno a doce meses.

YEMEN: *Article 36 of the Law No. 2 of 2011 on Patents, Utility Models, Layout Designs of Integrated Circuits and Undisclosed Information*

Article 36

A fine of up to 1 million rial shall be imposed upon anyone who:

1. Undertakes, for commercial purposes, to counterfeit any patent, utility model, or integrated circuit layout registered and protected under this Act.
2. Sells, puts on display for sale or circulation, imports, or possesses for commercial purposes products which he knows counterfeit an invention.
3. Unwarrantedly places on products, publicity, packaging instruments, etc. information which would lead people to believe he had obtained a patent or utility model.

If any of the offences stipulated by this article is repeated the penalty shall be redoubled. In all cases, the Tribunal may rule to confiscate the counterfeited items involved in the offence,

and the instruments used to practise the counterfeit. The sentence shall be made public as the Tribunal sees fit.

ZAMBIA:

No provision of law on criminal sanctions for patent infringement in the Patents Act (Chapter 400) of 1957 as last amended by Act No. 26 of 1987

ZIMBABWE:

No provision of law on criminal sanctions for patent infringement in the Patents Act, Chapter 26:03 of 1972 as last amended up to Act No. 14/2002)

OAPI: Articles 58 to 65 and 67 of Annex I on Patents of the Bangui Agreement

Article 58 Infringement

Subject to the provisions of Articles 8 and 46 to 56, any violation of the rights of a patentee by the use of means forming the subject matter of his patent, by the receiving or sale or display for sale or by the introduction into the national territory of one of the member States of one or more objects shall constitute the offense of infringement. That offense shall be punished with a fine of 1,000,000 to 3,000,000 CFA francs, without prejudice to the right to compensation.

Article 59 Recidivism and Aggravating Circumstances

(1) In the event of recidivism, imprisonment for a term of one to six months may be imposed in addition to the fine specified in Article 58.

(2) Recidivism shall be deemed to have occurred when, within the preceding five years, the defendant has received a first conviction for one of the offenses provided for in this Annex.

(3) Imprisonment for a term of one to six months may also be imposed if the infringer is a worker or employee who has worked in the workshops or establishment of the patentee, or if the infringer, having joined a worker or employee of the patentee, has become acquainted through him with the processes described in the patent.

(4) In the latter case, the worker or employee may be prosecuted as an accomplice.

Article 60 Extenuating Circumstances

The provisions of the national legislation of member States on extenuating circumstances shall apply to the offenses provided for in this Annex.

Article 61 Condition for Initiation of Criminal Proceedings

Criminal action seeking the imposition of the above penalties may only be brought by the Office of the Public Prosecutor on a complaint by the injured party.

Article 62 Exceptional Competence of the Criminal Court

The criminal court, when dealing with an action for infringement, shall rule on the arguments put forward by the accused in his defense, such as the alleged invalidity or forfeiture of the patent or questions relating to ownership of the said patent.

Article 63 Acts Prior to Grant

Acts occurring prior to the grant of a patent shall not be considered prejudicial to the rights of the patentee and may not be invoked to justify conviction, even under civil law, with the exception however of acts subsequent to the communication to the alleged infringer of an official copy of the description of the invention attached to the patent application.

Article 64 Infringement Seizure

(1) Owners of patents may, acting in pursuance of an order from the president of the civil court within whose jurisdiction the action is to be taken, engage bailiffs or public or ministerial officials, including customs officials, if necessary with the aid of an expert, to make a detailed inventory and description, with or without seizure, of allegedly infringing objects.

(2) The order shall be made on request and on presentation of the patent.

(3) Where seizure is involved, the said order may require the complainant to furnish security, which he shall be required to provide before seizure is effected. The security shall be sufficient but not such as would discourage recourse to the procedure.

(4) Security shall always be required of foreigners seeking seizure.

(5) The person in possession of the objects described or seized shall be given a copy of the order and, where appropriate, of the document attesting the deposit of security, on pain of invalidity and damages against the bailiff or the public or ministerial official or the customs official, as the case may be.

Article 65 Time Limit for Initiating Substantive Proceedings

Should the complainant fail to take action under either civil or criminal law within a period of 10 working days from the seizure or inventory, the said seizure or inventory shall become void as of right, without prejudice to any damages that may be claimed.

Article 67 Other Sanctions

(1) The confiscation or destruction of recognized infringing objects and, where necessary, that of implements or tools specially intended for their manufacture shall, even in the case of acquittal, be ordered against the infringer, the receiver, the introducer or the retailer.

(2) The objects confiscated may be handed over to the owner of the patent, without prejudice to the right to further damages and publication of the judgment, where appropriate.

(2) MEASURES RELATED TO SECURITY WHICH MIGHT RESULT IN A LIMITATION OF PATENT RIGHTS (SO-CALLED "SECURITY EXCEPTIONS")

ALBANIA: *Article 31 of the Industrial Property Law No. 9977 of 07/07/2008*

Article 31

Inventions Related to the Defense and Security

1. The requirements for inventions related to the defense and security of the country shall be considered "state secret" and shall be filed with the Ministry of Defense. The Ministry of Defense and the GDPT shall classify a patent application as a "state secret" no later than five months after all necessary information on the patent application is available and a date of filing is accorded.

2. When the GDPT considers a patent application as a "state secret," it shall notify the applicant, who, within the time period defined in the implementing regulation, shall state whether:

a) he agrees with the evaluation of the GDPT, the application shall be sent to be examined in the Ministry of Defense;

b) he does not accept the evaluation of the GDPT and proves the contrary with evidence, which is accepted, then the GDPT shall begin the procedure for examination and issuance of a patent in conformity with the provisions of this Law;

c) he does not accept the evaluation of the directorate and fails in bringing evidence, then the GDPT shall send the application to the Ministry of Defense to be examined.

3. If the Ministry of Defense judges that the invention should not be considered a "state secret" and it is de-classified, it shall return the application to the GDPT, which shall treat it in conformity with the provisions of this Law.

4. When an invention that is a "state secret" is not evaluated any more as such, the Ministry of Defense shall send the complete file of the patent to the GDPT, which shall register it in the patent register, grant the patent and publish the specification according to paragraph 5 of article 28 of this Law.

5. All secret patent applications and secret patents shall be treated according to special rules provided in the rules of GDPT and in the Law and other sub statutory acts for information classified "state secret."

6. Natural and legal Albanian nationals may ask for patents for "state secret" inventions outside the Republic of Albania only with the approval of the Directorate of the Security of Classified Information (DSCI).

7. In the case of inventions made in Albania, patents may not be applied for in any foreign country until 5 months have elapsed after the patent has been applied for at the GDPT. When the inventor is usually residing in Albania, unless there is evidence to the contrary, the invention shall be deemed to have been made in Albania.

8. The Minister of Defense shall be charged with issuing the respective instructions for "state secret" patents, in which the procedures and authorities responsible for examining them are defined.

Article 32

Exploitation of Secret Patents

1. The Ministry of Defense shall have the right to exploit secret patents.
2. The applicants or the owner of a patent that is secret shall be compensated by the Ministry of Defense.
3. An agreement between the parties shall be entered into for the amount of the compensation mentioned in paragraph 2 of this article. If an agreement is not reached, the applicant or the owner of the patent shall have the right to turn to the court to set the amount.
4. Assignment contracts of secret patents shall be entered into and shall be valid only after approval in writing from the Ministry of Defense, the Ministry of Interior or the State Information Service.
5. Licensing agreements of secret patents shall be entered into and shall be valid only after approval in writing from the Ministry of Defense, the Ministry Interior or the State Information Service.

ALGERIA: *Article 19 of the Ordinance No.03-07 of 19/07/2003*

Section 5 Inventions secrètes

19. Sans préjudice des droits matériels et moraux de l'inventeur, peuvent être déclarées secrètes les inventions intéressant la sécurité nationale et celles ayant une portée particulière pour l'intérêt public.

Les modalités d'application des dispositions du présent article sont définies par voie réglementaire.

ANTIGUA AND BARBUDA:

No provision of law on security measures in the Patents Act of 29/12/2003

ARGENTINA:

No provision of law on security measures in the Law on Patents and Utility Models, Consolidated Text of Law No. 24.481 of March 30/03/1995 as last amended by Law No. 25.859/2003)

ARMENIA: *Article 7 of the Law on Inventions, Utility Models and Industrial Designs of 10/06/2008*

Article 7. Secrecy of Applications Proceeding

(1) The determination of secrecy level of inventions, utility models, industrial designs, containing information on state and official secrets, their use and publication of information thereon is implemented in the order established by the Government of the Republic of Armenia.

(2) Before publication of information on patents on inventions, utility models or registered industrial designs in the Official Bulletin of the State Authorized Body, the content of the applications shall be deemed secret.

(3) The files that are of official secrecy shall be made available for inspection only with the consent or permission of the applicant, or for judicial bodies upon request. Therefore, the data shall be deemed open for inspection if they are accessible by any authorized means, among them direct communication or usual publication.

(4) Any person who can prove that, the applicant informed him in writing about his application and the scope of requested protection, may obtain the inspection of the secret files without the consent of the applicant.

(5) Where a patent application relating to a biological material has been refused or withdrawn, the deposited biological material shall only be available to third parties after twenty years from the date of filing of the application, if so requested by the applicant.

(6) Before the publication of the patent application in the Official Bulletin, the State Authorized Body may publish the following data or communicate them to third parties:

(a) the number of the application;

(b) the date of filing the application and, where the priority is claimed, the date, country and filing number of the previous application;

(c) data concerning the applicant (for natural person - surname, forename and address, for legal person - official name of the firm and seat);

(d) the title of the industrial property subject matter, if it does not disclose the substance of the subject matter.

AUSTRALIA: Sections 147, 152 and 153 of the Patents Act No. 83 of 1990 as amended by Act No. 35 of 2012 and Section 1(4) of the Nuclear Non-Proliferation (Safeguards) Act of 1987 (version of 20/04/2012)

Chapter 15 - Special provisions relating to associated technology

147 Certificate by Director as to associated technology

(1) Where the Commissioner considers that a specification in respect of an application may contain information of a kind referred to in the definition of associated technology in subsection 4(1) of the Safeguards Act, the Commissioner must give the Director written notice to that effect together with a copy of the patent request and specification.

(2) On receiving a notice, the Director may, if satisfied that the specification contains information of that kind, issue a certificate to that effect.

(3) Where the Director is satisfied that:

(a) the possession by the applicant or the nominated person of the associated technology containing the information was not in accordance with a permit; or

(b) the communication of the information involved in making the application was not in accordance with an authority;

the Director may include in the certificate:

(c) if the application is not a relevant international application - a direction that the application should lapse; or

(d) if the application is a relevant international application - a direction that the application should not be treated as an international application.

(4) Where the Director issues a certificate, the Director must give a copy of it to the Commissioner who must give a copy to the applicant.

152 Notice of prohibitions or restrictions on publication

(1) Where the Director issues a certificate under section 147 in relation to an application, the Director may give written notice to the Commissioner of any prohibitions or restrictions on the

publication or communication of the information in the specification, or in a relevant abstract, that the Director considers appropriate.

(2) On receiving a notice, the Commissioner must take such steps as are necessary or expedient to give effect to it.

(3) Without limiting the generality of subsection (2), the Commissioner may, by written order, prohibit or restrict the publication or communication of information about the subject matter of the application, whether generally or in relation to a particular person or class of persons.

(4) A person must not, except in accordance with the written consent of the Commissioner, publish or communicate information in contravention of an order.

Penalty: Imprisonment for 2 years.

153 Effect of order

(1) Where an order is in force in relation to an application for a standard patent, the application may proceed up to the acceptance of the patent request and complete specification, but the complete specification must not be made open to public inspection, the acceptance must not be notified in the Official Journal and a patent must not be granted on the application.

(2) While an order is in force in relation to an application for an innovation patent, the application may proceed up to the acceptance of the patent request and complete specification but a patent must not be granted on the application.

(3) Where an order in relation to an application for a standard patent has been revoked after the acceptance of the patent request and complete specification, the acceptance must be notified in the Official Journal within the prescribed period.

(4) Nothing in this Act prevents disclosing information about an invention to the Director for the purpose of obtaining advice on whether an order should be made, amended or revoked.

Nuclear Non-Proliferation (Safeguards) Act of 1987

4 Interpretation

(1) In this Act, unless the contrary intention appears:

associated technology means any document that contains information (other than information that is lawfully available, whether within Australia or outside Australia and whether for a price or free of charge, to the public or a section of the public):

(a) that is applicable primarily to the design, production, operation, testing or use of:

(i) equipment or plant for:

(A) the enrichment of nuclear material;

(B) the reprocessing of irradiated nuclear material; or

(C) the production of heavy water; or

(ii) nuclear weapons or other nuclear explosive devices; or

(b) to which a prescribed international agreement applies and that is of a kind declared by the Minister, in writing, to be information to which this definition applies;

and includes any photograph, model or other thing from which such information may be obtained or deduced.

AUSTRIA:

No provision of law on security measures in the the Patents Law 1970, BGBl. No. 259/1970 as last amended in 2009

AZERBAIJAN: *Articles 25 and 30 of the Law of the Republic of Azerbaijan on Patents of 2009*

Статья 25. Изобретения, полезные модели и промышленные образцы, связанные с национальной безопасностью Если раскрытие указанных в заявке сведений об изобретении, полезной модели и промышленном образце может причинить ущерб безопасности Азербайджанской Республики, она рассматривается в порядке, установленном соответствующим органом исполнительной власти.

Статья 30.4 Публикация сведений о заявке

Если объект изобретения или полезной модели имеют отношение к национальным интересам государства, соответствующий орган исполнительной власти имеет право по своей инициативе приостановить публикацию сведений о заявке на срок до 4-х месяцев с даты принятия соответствующего решения. Это решение теряет силу, если после истечения указанного срока соответствующий орган исполнительной власти не утвердит его и не продлит срок.

В случае, если соответствующий орган исполнительной власти запретит публикацию сведений об изобретении (полезной модели), его открытое использование либо использование объекта заявки или патента заявитель или патентообладатель могут потребовать от этого органа выплаты соответствующей компенсации.

Соответствующая компенсация может быть потребована при продлении первого 12-ти месячного срока запрета на публикацию сведений и использование изобретения (полезной модели). Возникающие при этом споры разрешаются в судебном порядке.

BAHARAIN: *Article 20 of the law on Patents and Utility Models No. 1 of 2004 as last amended by Law No. 14 of 2006*

Article (20)

Should the competent authority at the Ministry of Trade find that the subject invention concerns an important matter pertaining to defense or public security; it shall forthwith inform the Ministry of Defense or the Ministry of Interior, as the case may be, of the patent application and attachment on a confidential basis. In such a case, the Minister of Defense or the Minister of Interior, as applicable, may object to the patent application within ninety days of receiving the respective papers in return of purchasing the patent, holding an agreement of exploitation with the applicant or by applying the provisions of compulsory licensing in accordance with the provisions of this law.

BANGLADESH: *Section 21A of the Patents and Designs Act (Act No. 11 of 1911)*

Assignment of patent to the Government

21A. (1) The inventor of any improvement in instruments or munitions of war may (either for or without valuable consideration) assign to the Government all the benefit of the invention and of any patent obtained or to be obtained for the invention; and the Government may be a party to the assignment.

(2) The assignment shall effectually vest the benefit of the invention and patent in the Government, and all covenants and agreements therein contained for keeping the invention secret and otherwise shall be valid and effectual (notwithstanding any want of valuable consideration), and may be enforced accordingly by or on behalf of the Government.

(3) Where any such assignment has been made, the Government may, at any time before the publication of the specification, certify to the Registrar that, in the interest of the public service, the particulars of the invention and of the manner in which it is to be performed should be kept secret.

(4) If the Government so certify, the application and specifications, with the drawings (if any) and any amendment of the specification and any copies of such documents and Designs and Trade Marks, be delivered to the Registrar in a packet sealed by authority of the Government.

(5) The packet shall, until the expiration of the term during which a patent for the invention may be in force, be kept sealed by the Registrar, and shall not be opened save under the authority of an order of the Government.

(6) The sealed packet shall be delivered at any time during the continuance of the patent to any person authorised by the Government to receive it, and shall, if returned to the Registrar, be again kept sealed by him.

(7) On the expiration of the term of the patent the sealed packet shall be delivered to the Government.

(8) Where the Government certifies as aforesaid after an application for a patent has been left at the Department of Patents, Designs and Trade Marks but before the publication of the specification, the application and specifications, with the drawings (if any) shall be forthwith placed in a packet sealed by authority of the Registrar, and the packet shall be subject to the foregoing provisions respecting a packet sealed by authority of the Government.

(9) No proceeding by petition or otherwise shall lie for revocation of a patent granted for an invention in relation to which a certificate has been given by the Government as aforesaid.

(10) No copy of any specification or other document or drawing, by this section required to be placed in a sealed packet, shall in any manner whatever be published or open to the inspection of the public, but, save as otherwise provided in this section, the provisions of this Act shall apply in respect of any such invention and patent as aforesaid.

(11) The Government may at any time waive the benefit of this section with respect to any particular invention, and the specifications, documents and drawings shall be thenceforth kept and dealt with in the ordinary way.

(12) The communication of any invention for any improvement in instruments or munitions of war to the Government or to any person or persons authorised by the Government to investigate the same or the merits thereof, shall not, nor shall anything done for the purposes of the investigation, be deemed use or publication of such invention so as to prejudice the grant or validity of any patent for the same.]

BARBADOS: *Section 17 (6) of the Patents Act No. 18 of 26/07/2001*

Patent application

17. (6) An application under this Act for a patent for an invention may not be refused, nor is any patent granted therefor invalid, by reason only that an act performed in connection with the invention to which the patent relates is prohibited by law, unless that act is one that is likely to provoke a breach of the peace.

BELARUS: *Article 32 of the Law of the Republic of Belarus No. 160-Z of December 16, 2002, on Patents for Inventions, Utility Models, Industrial Designs (as amended up to December 22, 2011)*

Статья 32. Патентование в зарубежных странах

1. Физические и юридические лица Республики Беларусь имеют право патентовать изобретения, полезные модели, промышленные образцы в зарубежных странах.

2. До подачи заявки в зарубежных странах заявитель обязан подать такую заявку в Республике Беларусь и сообщить в патентный орган о намерениях запатентовать изобретение, полезную модель, промышленный образец в зарубежных странах.

Если в течение трех месяцев с даты подачи заявки отсутствует запрет патентного органа, заявка может быть подана в зарубежных странах.

Подача заявки в зарубежных странах может быть осуществлена и ранее указанного срока, но после окончания проводимой в установленном Советом Министров Республики Беларусь порядке проверки наличия в заявке сведений, разглашение которых может нанести ущерб безопасности Республики Беларусь.

Изобретения, полезные модели, промышленные образцы, содержащие сведения, разглашение которых может нанести ущерб безопасности Республики Беларусь, должны быть засекречены в порядке, установленном законодательством, и не могут быть запатентованы в зарубежных странах.

3. Расходы, связанные с патентованием изобретения, полезной модели, промышленного образца в зарубежных странах, несет заявитель или по соглашению с ним иное физическое или юридическое лицо.

4. Заявки в соответствии с международными договорами, действующими для Республики Беларусь, подаются непосредственно в патентный орган, если иное не установлено в соответствии с нормами этих международных договоров.

BELGIUM: *Article 31 ° 4 of the Patent Law of 28/03/1984 (Consolidated version as of 01/01/2010) and Article 2 of the Law of 08/07/1977 on the approval of the Strasbourg convention, PCT and the Convention on the European Patent and its Regulations.*

Article 31

§ 4. Est réservée l'application des lois prévoyant l'octroi de licences d'exploitation d'inventions brevetées en des matières spéciales, notamment la défense nationale et l'énergie nucléaire.

Art. 2 Law of 08/07/1977

§ 2. La demande internationale, visée à l'article 2 VII du Traité de coopération en matière de brevets, qui peut intéresser la défense du territoire ou la sûreté de l'Etat doit être déposée auprès du Service. Les dispositions de la loi du 10 janvier 1955 relative à la divulgation et à

la mise en œuvre des inventions et secrets de fabrique intéressant la défense du territoire ou la sûreté de l'Etat [...] lui sont applicables.

Loi du 10 janvier 1955

CHAPITRE I Dispositions générales.

Article 1. Est interdite, la divulgation des secrets de fabrique et des inventions lorsqu'elle est contraire aux intérêts de la défense du territoire ou de la sûreté de l'Etat.

L'auteur de la divulgation et celui qui l'a causée par sa négligence sont passibles de peines prévues à l'article 13, s'il est établi qu'ils n'ont pu ignorer qu'elle était contraire aux intérêts de la défense du territoire ou de la sûreté de l'Etat.

Art. 2. Sans préjudice de l'application de l'article 1er, le Ministre qui a la propriété industrielle dans ses attributions et le Ministre de la Défense Nationale peuvent déclarer conjointement que la divulgation d'une invention ou d'un secret de fabrique est contraire aux intérêts de la défense du territoire ou de la sûreté de l'Etat et qu'elle est interdite pendant la période qu'ils déterminent.

Art. 3. Lorsqu'ils l'estiment nécessaire en vue d'assurer la défense du territoire ou la sûreté de l'Etat, les Ministres désignés à l'article précédent, agissant conjointement, peuvent déterminer et contrôler temporairement les conditions d'exploitation d'inventions et de mise en oeuvre de secrets de fabrique.

S'il est établi que ces mesures sont insuffisantes à satisfaire les exigences de la défense du territoire ou de la sûreté de l'Etat, ils peuvent, par décision motivée, soit interdire temporairement l'exploitation d'inventions ou la mise en oeuvre de secrets de fabrique, soit réserver temporairement et exclusivement ou non à l'Etat le droit d'exploiter un brevet d'invention, soit contraindre l'intéressé à lui céder la connaissance complète d'une invention non brevetée ou d'un secret de fabrique.

Les Ministres peuvent également procurer à l'Etat la licence d'un brevet et la connaissance complète d'une invention non brevetée ou d'un secret de fabrique au moyen de contrats librement conclus.

CHAPITRE II. _ Dispositions spéciales aux inventions, objet de demandes de brevet.

Art. 4. Toute invention, objet d'une demande de brevet, peut, dès le dépôt de cette demande, être portée par le Ministre ayant la propriété industrielle dans ses attributions, à la connaissance du Ministre de la Défense Nationale, afin de déterminer si les besoins de la défense du territoire ou de la sûreté de l'Etat nécessitent à son égard des mesures prévues par les articles 2 et 3 de la présente loi.

Le Ministre de la Défense Nationale peut, dans le même but, prendre connaissance d'office, dès leur dépôt, du contenu des demandes de brevets.

Art. 5. Lorsqu'une demande de brevet fait l'objet d'un examen par le Ministre de la Défense Nationale, par application de l'article 4 de la présente loi, le déposant en est avisé sans délai par lettre recommandée à la poste. Dès ce moment, il lui est interdit, sauf autorisation expresse, de divulguer l'invention, objet de la demande de brevet, et notamment de déposer une demande de brevet à l'étranger, de céder les droits à la demande ou d'en concéder une licence.

La délivrance du brevet est suspendue si son ajournement est nécessaire en vue de l'examen visé à l'alinéa 1er.

Art. 6. Dans un délai de trois mois, le Ministre de la Défense Nationale fait savoir au Ministre qui a la propriété industrielle dans ses attributions, s'il y a lieu ou non de prendre une ou plusieurs des mesures spéciales prévues aux articles 2 et 3.

Au plus tard six mois à dater du dépôt de la demande de brevet, les Ministres décident soit de prendre une ou plusieurs mesures prévues par les articles 2 et 3, soit de n'en point prendre et notifient, sans délai, leur décision au requérant.

Art. 7. Pendant l'examen prévu à l'article 4, et pendant la durée de l'interdiction faite en vertu de l'article 2, l'administration est tenue d'assurer le secret des inventions faisant l'objet des demandes de brevet ou des brevets.

CHAPITRE III. _ Levée des interdictions.

Art. 8. A tout moment, les interdictions ou les limitations de droit formulées conformément aux articles 2, 3 et 5 peuvent être levées partiellement ou totalement, par décision des Ministres dont elles émanent, agissant conjointement. Cette mainlevée peut être sollicitée par le titulaire du droit sujet à interdiction ou à limitation.

CHAPITRE IV. _ Indemnisation.

Art. 9. Quiconque fait l'objet d'une des décisions administratives prévues par les articles 2, 3 et 5 a droit, sous forme d'indemnité, à la réparation du préjudice subi par lui.

Art. 10. Les contestations relatives à la détermination et au paiement des indemnités et celles qui sont relatives au paiement des sommes dues en vertu des contrats prévus au dernier alinéa de l'article 3 font l'objet d'un préliminaire de conciliation devant une commission composée de représentants du Ministre ayant la propriété industrielle dans ses attributions, du Ministre de la Défense Nationale et du Conseil supérieur de la propriété industrielle. L'intéressé est entendu et peut se faire assister d'un conseil.

Art. 11. Si la conciliation échoue, la connaissance des contestations appartiendra aux tribunaux de première instance, quel que soit le montant de la demande.

La présente disposition n'exclut pas l'application des articles 16 et 17 de la loi du 25 mars 1876 sur la compétence et des articles 443 et suivants du Code de procédure civile.

CHAPITRE V. _ Restrictions apportées par des états étrangers aux droits des demandeurs de brevet.

Art. 12. Lorsque, dans l'intérêt de sa défense, un Etat étranger interdit la divulgation d'une invention, objet d'une demande de brevet, le Ministre ayant la propriété industrielle dans ses attributions s'abstiendra, sur requête de cet Etat ou du déposant qui établira la preuve de l'interdiction, de la communiquer au public et de délivrer des copies de sa description, aussi longtemps que durera cette interdiction.

La prise en considération de cette requête est subordonnée à l'existence d'une convention entre la Belgique et l'Etat étranger auteur de l'interdiction.

CHAPITRE VI. _ Dispositions pénales.

Art. 13. Sans préjudice à l'application des dispositions du Code pénal, sera puni d'un emprisonnement de six mois à cinq ans et d'une amende de 500 à 5.000 francs, ou d'une de ces peines seulement, l'auteur de la divulgation visée aux articles 1er, 2 et 5.

Celui qui l'a provoquée par sa négligence sera puni d'un emprisonnement d'un mois à un an et d'une amende de 100 à 1.000 francs, ou d'une de ces peines seulement.

Les infractions aux mesures prévues à l'article 3 seront punies d'un emprisonnement d'un mois à un an et d'une amende de 100 à 1.000 francs, ou d'une de ces peines seulement.

Les dispositions du Code pénal, sans exception du chapitre VII du livre 1er et de l'article 85, sont applicables aux infractions prévues par la présente loi.

BELIZE:

No provision of law on security measures in the Patents Act - Cap. 253, of 21/06/2000 as last amended by Act No. 40 of 2005

BHUTAN:

No provision of law on security measures in the Industrial Property Act of 13/07/2001

BOSNIA AND HERZEGOVINA:

No provision of law on security measures in the Patent Law of 28/05/2010

BOTSWANA:

No provision of law on security measures in the Industrial Property Act, Act No. 8 of 2010

BRAZIL: Article 75 of the Industrial Property Law No. 9.279 of 14/05/1996, as last amended by Law No. 10.196 of 14/02/2001 and Article 1 to 3 of the Decree No. 2.553 of 16/04/1998 (Implementation of Articles 75, 88 to 93 of Law No. 9.279 of May 14, 1996 on Industrial Property

CHAPTER IX

PATENT OF INTEREST TO NATIONAL DEFENSE

75. A patent application originating in Brazil and whose object is of national defense interest shall be processed as confidential and shall not be subject to the publications established in this Law.

(1)The INPI shall forward the application immediately to the competent agency of the Executive Power, which shall make a statement on its confidentiality within a period of 60 (sixty) days. If this period elapses without any statement of the competent agency, the application shall be normally processed.

(2)The filing in another country of a patent whose object has been deemed of national defense interest is prohibited, as is any disclosure thereof, unless express authorization from the competent agency.

(3)The exploitation and the assignment of the application or patent that is of national defense interest are conditioned upon prior authorization from the competent agency, and indemnification is assured whenever the rights of the applicant or titleholder are restricted.

Decree No. 2.553 of 16/04/1998

Art 1º A Secretaria de Assuntos Estratégicos da Presidência da República é o órgão competente do Poder Executivo para manifestar-se, por iniciativa própria ou a pedido do Instituto Nacional da Propriedade Industrial - INPI, sobre o caráter sigiloso dos processos de pedido de patente originários do Brasil, cujo objeto seja de interesse da defesa nacional.

§ 1º O caráter sigiloso do pedido de patente, cujo objeto seja de natureza militar, será decidido com base em parecer conclusivo emitido pelo Estado-Maior das Forças Armadas, podendo o exame técnico ser delegado aos Ministérios Militares.

§ 2º O caráter sigiloso do pedido de patente de interesse da defesa nacional, cujo objeto seja de natureza civil, será decidido, quando for o caso, com base em parecer conclusivo dos Ministérios a que a matéria esteja afeta.

§ 3º Da patente resultante do pedido a que se refere o caput deste artigo, bem como do certificado de adição dela decorrente, será enviada cópia ao Estado-Maior das Forças Armadas e à Secretaria de Assuntos Estratégicos da Presidência da República, onde será, também, conservado o sigilo de que se revestem tais documentos.

Art 2º O depósito no exterior, a exploração e a cessão do pedido ou da patente, e sua divulgação, cujo objeto tenha sido considerado de interesse da defesa nacional, ficam condicionados à prévia autorização da Secretaria de Assuntos Estratégicos da Presidência da República.

Parágrafo único. Quando houver restrição aos direitos do depositante de pedido ou do titular da patente, considerados de interesse da defesa nacional, nos termos do art. 75, § 3º da Lei nº 9.279, de 1996, o depositante ou titular da patente será indenizado mediante comprovação dos benefícios que teria auferido pela exploração ou cessão.

Art 3º Ao servidor da Administração Pública direta, indireta e fundacional, que desenvolver invenção, aperfeiçoamento ou modelo de utilidade e desenho industrial, será assegurada, a título de incentivo, durante toda a vigência da patente ou do registro, premiação de parcela do valor das vantagens auferidas pelo órgão ou entidade com a exploração da patente ou do registro.

§ 1º Os órgãos e as entidades da Administração Pública direta, indireta e fundacional promoverão a alteração de seus estatutos ou regimentos internos para inserir normas que definam a forma e as condições de pagamento da premiação de que trata este artigo, a qual vigorará após publicação no Diário Oficial da União, ficando convalidados os acordos firmados anteriormente.

§ 2º A premiação a que se refere o caput deste artigo não poderá exceder a um terço do valor das vantagens auferidas pelo órgão ou entidade com a exploração da patente ou do registro.

BRUNEI DARUSSALAM: *Articles 27 (3), 32 and 33 of the Patents Order of 12/10/2011*

Publication of application.

27. (3)The Registrar may omit from the specification of a published application for a patent any matter

(a) which in his opinion disparages any person in a way likely to damage him; or

(b) the publication or exploitation of which would in his opinion be generally expected to encourage offensive, immoral or anti-social behaviour.

Information prejudicial to defence of Brunei Darussalam or safety of public.

32. (1) Where an application for a patent is filed in the Registry (whether under this Order or any treaty or international convention to which Brunei Darussalam is a party) and it appears to the Registrar that the application contains information of a description notified to him by the Minister as being information the publication of which might be prejudicial to the defence of Brunei Darussalam, the Registrar shall give directions prohibiting or restricting the publication of that information or its communication to any specified person or description of persons.

(2) If it appears to the Registrar that any application so filed contains information the publication of which might be prejudicial to the safety of the public, he may give directions prohibiting or restricting the publication of that information or its communication to any specified person or description of persons until the end of a period not exceeding 3 months from the end of a period prescribed for the purposes of section 27.

(3) While directions are in force under this section with respect to an application

(a) if the application is made under this Order, it will be held in abeyance after the formal requirements of this Order and the rules have been met and will not proceed to be processed in accordance with section 29 until the directions are revoked under subsection (4)(e); and

(b) if it is an international application for a patent, a copy of it shall not be sent to the International Bureau or any international searching authority appointed under the Patent Co-operation Treaty.

(4) Where the Registrar gives directions under this section with respect to any application, he shall give notice of the application and of the directions to the Minister, and the following provisions shall then have effect

(a) the Minister shall, on receipt of the notice, consider whether the publication of the application or the publication or communication of the information in question would be prejudicial to the defence of Brunei Darussalam or the safety of the public;

(b) if the Minister determines under paragraph (a) that the publication or communication of that information would be prejudicial to the safety of the public, he shall notify the Registrar who shall continue his directions under subsection (2) until they are revoked under paragraph (e);

(c) if the Minister determines under paragraph (a) that the publication of the application or the publication or communication of that information would be prejudicial to the defence of Brunei Darussalam or the safety of the public, he shall (unless a notice under paragraph (d) has previously been given by the Minister to the Registrar) reconsider that question during the period of 9 months from the date of filing the application and at least once in every subsequent period of 12 months;

(d) if on consideration of an application at any time it appears to the Minister that the publication of the application or the publication or communication of the information contained in it would not, or would no longer, be prejudicial to the defence of Brunei Darussalam or the safety of the public, he shall give notice to the Registrar to that effect; and

(e) on receipt of such a notice the Registrar shall revoke the directions and may, subject to such conditions (if any) as he thinks fit, extend the time for doing anything required or authorised to be done by or under this Order in connection with the application, whether or not that time has previously expired.

(5) The Minister may at any time, for the purpose of enabling him to decide the question referred to in subsection (4)(e), do one or both of the following, that is to say, inspect or authorise any person to inspect the application and any document sent to the Registrar in connection with it and where a person is authorised to carry out such inspection, he shall as soon as practicable report on his inspection to the Minister.

(6) Where directions given under this section in respect of an application for a patent for an invention are revoked, and the application is brought in order for the grant of a patent and a patent is granted for the invention, then –

(a) if while the directions are in force the invention is worked by (or with the written authorisation of or to the order of) a Government department, the provisions of Part XII shall apply as if

i) the working were use made by section 58;

ii) the application had been published at the end of the prescribed period or at the time the directions were revoked, whichever is earlier; and

iii) a patent had been granted¹ for the invention at the time the application is brought in order for the grant of a patent (taking the terms of the patent to be those of the application as it stood at the time it was so brought in order); and

(b) if it appears to the Minister that the applicant for the patent has suffered hardship while the directions were in force, the Minister may make such payment (if any) by way of compensation to the applicant as appears to the Minister to be reasonable having regard to the inventive merit and utility of the invention, the purpose for which it is designed and any other relevant circumstances.

(7) Where a patent is granted in pursuance of an application in respect of which directions have been given under this section, no renewal fees shall be payable in respect of any period during which those directions were in force.

(8) Any person who fails to comply with any direction under this section is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 2 years or both.

(9) Nothing in this section shall prevent the disclosure of information concerning an invention to a Government department or authority for the purpose of obtaining advice as to whether directions under this section with respect to an application for a patent for that invention should be made, amended or revoked.

Restrictions on applications abroad by Brunei Darussalam residents.

33. (1) Subject to this section, no person resident in Brunei Darussalam shall, without written authority granted by the Registrar, file or cause to be filed outside Brunei Darussalam an application for a patent for an invention unless

(a) an application for a patent for the same invention has been filed in the Registry not less than 2 months before the application outside Brunei Darussalam; and

(b) no directions have been given under section 32 in relation to the application in Brunei Darussalam or all such directions have been revoked.

(2) Subsection (1) does not apply to an application for a patent for an invention for which an application for a patent has first been filed in a country outside Brunei Darussalam by a person resident outside Brunei Darussalam.

(3) Any person who files or causes to be filed an application for the grant of a patent in contravention of this section is guilty of an offence and liable on conviction to a fine not exceeding \$5,000, imprisonment for a term not exceeding 2 years or both.

(4) In this section

(a) any reference to an application for a patent includes a reference to an application for other protection for an invention;

(b) any reference to either kind of application is a reference to an application under this Order, under the law of any country other than Brunei Darussalam or under any treaty or international convention to which Brunei Darussalam is a party; and

(c) "person resident in Brunei Darussalam" includes a person who, at the material time, is residing in Brunei Darussalam by virtue of a valid pass lawfully issued to him under the Immigration Act (Chapter 17) to enter and remain in Brunei Darussalam for any purpose.

BULGARIA: Articles 24, 25 and 45a of the Law on Patents and Utility Model Registration No. 27/2 of 1993 as last amended on 20/07/2007 (version of 2010 available only in Bulgarian) and Regulation on the Secret Patents of 20/12/2008 (available only in Bulgarian)

Secret Patents

Art. 24. (amended, State Gazette No. 45/2002; amended, State Gazette No. 64/2006, in force as from 09.11.2006) (1) Secret patents shall be granted for secret inventions, applied for by Bulgarian citizens with permanent address in the Republic of Bulgaria or legal persons with principle place of business in the Republic of Bulgaria.

(2) Secret inventions are inventions, which contain classified information representing a state secret within the meaning of Article 25 of the Law on the Protection of Classified Information.

(3) The authorities competent to determine the information security classification level and to remove the level of classification of secret patents shall be the Ministry of the Interior and the Ministry of Defence.

(4) Secret patent applications shall be filed with the Patent Office, the filing date being the date on which the documents referred to in Article 34(2) are received.

(5) No fees are payable for the acts related to a secret patent application and the grant and maintenance of a secret patent.

(6) A secret patent applications shall be examined in accordance with Article 46(1). Where the requirements are satisfied, a secret patent shall be granted, to which the Patent Office shall place the respective security grading.

(7) Appeals against decisions to terminate the proceedings in a secret patent application, such decisions being based on Article 46(1), as well as requests for invalidation of a secret patent, shall be considered in camera by the Sofia City Court in accordance with the Code of Administrative Procedure. Appeals shall be lodged within three months following receipt of the decision, while requests may be filed throughout the lifetime of the secret patent.

(8) The person entitled to use and dispose of a secret patent shall be determined by decision of the Council of Ministers.

(9) Where the classification level is removed, the competent authority shall notify the Patent Office respectively. The Patent Office shall inform the holder, giving him three months to pay the fees referred to in Article 53, as well as the patent maintenance fee referred to in Article 33(4). On payment of the fees, the patent shall be recorded in the Register of Patents and the publications under Article 51 shall be performed.

(10) The secret patent owner may file a search and examination request after removal of the information security classification level. The request shall be accompanied by a document certifying payment of the search and examination fee under Article 46b(2).

(11) The procedure of determining the information security classification level and removal thereof with respect to applications and secret patents shall be specified in a Secret Patents Regulation adopted by the Council of Ministers.

Patenting Abroad

Art. 25. (amended, State Gazette No. 64/2006, in force as from 09.11.2006) (1) Bulgarian citizens with a permanent address in the Republic of Bulgaria or legal persons with a principle place of business in the Republic of Bulgaria shall have the right to seek patents for their inventions abroad after the examination referred to Article 45a.

(2) Secret patents may not be patented abroad.

Examination as to the Availability of Classified Information

Art. 45a (new, State Gazette No. 64/2006, in force as from 09.11.2006) (1) Where the applicant is a Bulgarian citizen with a permanent address in the Republic of Bulgaria or a legal person with a principle place of business in the Republic of Bulgaria, the competent authorities referred to in Article 24(3) shall, within one month from the filing date of the application, examine it as to whether it contains classified information within the meaning of Article 25 of the Law on the Protection of Classified Information.

(2) Where the application is found to contain classified information, it shall be sent in due order to the competent authorities, and the latter shall, within three months from receipt thereof, determine the level of security classification.

(3) If, on expiry of the term referred to in paragraph (2), no information is received at the Patent Office concerning the security classification level, it shall be considered that the application is not a secret patent application.

(4) Where the application has been filed as a secret patent application and, after the examination referred to in paragraphs (1) to (3), no security classification level has been determined by the competent authorities, the Patent Office shall inform the applicant that the application contains no secret invention and shall ask for his express consent for the application to be examined in accordance with the ordinary provisions. In case no such consent is received within three months, the application shall be deemed to be withdrawn.

BURUNDI:

No provision of law on security measures in the Law No. 1/13 of 28/07/2009 on Industrial Property

CABO VERDE:

No provision of law on security measures in the Industrial Property Code, Decree-Law No. 4/2007 of 20/08/2007

CANADA: *Sections 20 to 22 of the Patent Act (R.S.C., 1985, c. P-4), as last amended on 21/09/2006*

GOVERNMENT OWNED PATENTS

Assignment to Minister of National Defence

20.

(1) Any officer, servant or employee of the Crown or of a corporation that is an agent or servant of the Crown, who, acting within the scope of his duties and employment, invents any invention in instruments or munitions of war shall, if so required by the Minister of National Defence, assign to that Minister on behalf of Her Majesty all the benefits of the invention and of any patent obtained or to be obtained for the invention.

Idem

(2) Any person other than a person described in subsection (1) who invents an invention described in that subsection may assign to the Minister of National Defence on behalf of Her Majesty all the benefits of the invention and of any patent obtained or to be obtained for the invention.

Inventor entitled to compensation

(3) An inventor described in subsection (2) is entitled to compensation for an assignment to the Minister of National Defence under this Act and in the event that the consideration to be paid for the assignment is not agreed on, it is the duty of the Commissioner to determine the amount of the consideration, which decision is subject to appeal to the Federal Court.

Proceedings before Federal Court

(4) Proceedings before the Federal Court under subsection (3) shall be held in camera on request made to the court by any party to the proceedings.

Vesting on assignment

(5) An assignment to the Minister of National Defence under this Act effectually vests the benefits of the invention and patent in the Minister of National Defence on behalf of Her Majesty, and all covenants and agreements therein contained for keeping the invention secret and otherwise are valid and effectual, notwithstanding any want of valuable consideration, and may be enforced accordingly by the Minister of National Defence.

Person making assignment and person having knowledge thereof

(6) Any person who has made an assignment to the Minister of National Defence under this section, in respect of any covenants and agreements contained in such assignment for keeping the invention secret and otherwise in respect of all matters relating to that invention, and any other person who has knowledge of such assignment and of such covenants and agreements, shall be, for the purposes of the Security of Information Act, deemed to be persons having in their possession or control information respecting those matters that has been entrusted to them in confidence by any person holding office under Her Majesty, and the communication of any of that information by the first mentioned persons to any person other than one to whom they are authorized to communicate with, by or on behalf of the Minister of National Defence, is an offence under section 4 of the Security of Information Act.

Minister may submit application for patent

(7) Where any agreement for an assignment to the Minister of National Defence under this Act has been made, the Minister of National Defence may submit an application for patent for the invention to the Commissioner, with the request that it be examined for patentability, and if the application is found allowable may, before the grant of any patent thereon, certify to the Commissioner that, in the public interest, the particulars of the invention and of the manner in which it is to be worked are to be kept secret.

Secret application

(8) If the Minister of National Defence so certifies, the application and specification, with the drawing, if any, and any amendment of the application, and any copies of those documents and the drawing and the patent granted thereon shall be placed in a packet sealed by the Commissioner under authority of the Minister of National Defence.

Custody of secret application

(9) The packet described in subsection (8) shall, until the expiration of the term during which a patent for the invention may be in force, be kept sealed by the Commissioner, and shall not be opened except under the authority of an order of the Minister of National Defence.

Delivery of secret application

(10) The packet described in subsection (8) shall be delivered at any time during the continuance of the patent to any person authorized by the Minister of National Defence to receive it, and shall, if returned to the Commissioner, be kept sealed by him.

Delivery to Minister

(11) On the expiration of the term of the patent, the packet described in subsection (8) shall be delivered to the Minister of National Defence.

Revocation

(12) No proceeding by petition or otherwise lies to have declared invalid or void a patent granted for an invention in relation to which a certificate has been given by the Minister of National Defence under subsection (7), except by permission of the Minister.

Prohibition of publication and inspection

(13) No copy of any specification or other document or drawing in respect of an invention and patent, by this section required to be placed in a sealed packet, shall in any manner whatever be published or open to the inspection of the public, but, except as otherwise provided in this section, this Act shall apply in respect of the invention and patent.

Waiver by Minister

(14) The Minister of National Defence may at any time waive the benefit of this section with respect to any particular invention, and the specification, documents and drawing relating thereto shall thereafter be kept and dealt with in the regular way.

Rights protected

(15) No claim shall be allowed in respect of any infringement of a patent that occurred in good faith during the time that the patent was kept secret under this section, and any person who, before the publication of the patent, had in good faith done any act that, but for this subsection would have given rise to a claim, is entitled, after the publication, to obtain a licence to manufacture, use and sell the patented invention on such terms as may, in the absence of agreement between the parties, be settled by the Commissioner or by the Federal Court on appeal from the Commissioner.

Communication to Minister

(16) The communication of any invention for any improvement in munitions of war to the Minister of National Defence, or to any person or persons authorized by the Minister of National Defence to investigate the invention or the merits thereof, shall not, nor shall anything done for the purposes of the investigation, be deemed use or publication of the invention so as to prejudice the grant or validity of any patent for the invention.

Order to keep non-assigned application secret

(17) The Governor in Council, if satisfied that an invention relating to any instrument or munition of war, described in any specified application for patent not assigned to the Minister of National Defence, is vital to the defence of Canada and that the publication of a patent therefor should be prevented in order to preserve the safety of the State, may order that the invention and application and all the documents relating thereto shall be treated for all purposes of this section as if the invention had been assigned or agreed to be assigned to the Minister of National Defence.

Rules

(18) The Governor in Council may make rules for the purpose of ensuring secrecy with respect to applications and patents to which this section applies and generally to give effect to the purpose and intent thereof.

R.S., 1985, c. P-4, s. 20; 2001, c. 41, s. 36.

Agreement between Canada and other government

21. Where by any agreement between the Government of Canada and any other government it is provided that the Government of Canada will apply section 20 to inventions disclosed in any application for a patent assigned or agreed to be assigned by the inventor to that other government, and the Commissioner is notified by any minister of the Crown that the agreement extends to an invention in a specified application, the application and all the documents relating thereto shall be dealt with as provided in section 20, except subsections (3) and (4), as if the invention had been assigned or agreed to be assigned to the Minister of National Defence.

PATENTS RELATING TO NUCLEAR ENERGY

Communication to Canadian Nuclear Safety Commission

22. Any application for a patent for an invention that, in the opinion of the Commissioner, relates to the production, application or use of nuclear energy shall, before it is dealt with by an examiner appointed pursuant to section 6 or is open to inspection by the public under section 10, be communicated by the Commissioner to the Canadian Nuclear Safety Commission.

CAMBODIA:

No provision of law on security measures in the Law on Patents, Utility Models and Industrial Designs of 22/01/2003

CHILE:

No provision of law on security measures in the Law No. 19.039 on Industrial Property (Consolidated as 2012)

CHINA: Articles 14 and 20 of the Patents Law of 28/12/2008 and Articles from 7 to 9 of the Regulation on National Defense Patent of 17/09/2004

Article 14 - If an invention patent of a State-owned enterprise or institution is of great significance to national or public interests, upon approval by the State Council, the relevant competent department under the State Council or the people's government of the province, autonomous region, or municipality directly under the Central Government may decide to have the patent widely applied within an approved scope and allow the designated units to exploit the patent, and the said units shall pay royalties to the patentee in accordance with the regulations of the State.

Article 20 - Any unit or individual that intends to apply for patent in a foreign country for an invention or utility model accomplished in China shall submit the matter to the patent administration department under the State Council for confidentiality examination. Such examination shall be conducted in conformity with the procedures, time limit, etc. prescribed by the State Council.

A Chinese unit or individual may file for international patent applications in accordance with the relevant international treaties to which China has acceded. The applicant for such patent shall comply with the provisions of the preceding paragraph.

The patent administration department under the State Council shall handle international patent applications in accordance with the relevant international treaties to which China has acceded and the relevant provisions of this Law and regulations of the State Council.

With regard to an invention or utility model for which an application is filed for a patent in a foreign country in violation of the provisions of the first paragraph of this Article, if an application is also filed for the patent in China, patent right shall not be granted.

Regulation on National Defense Patent

Article 7 - The right to apply for a national defense patent and the right of a national defense patent may be transferred to a Chinese entity or individual within China upon approval. When transferring the right to apply for a national defense patent or the right of a national defense patent, one shall ensure that the state secrets won't be divulged, shall guarantee that construction of national defense and the army won't be affected and shall file a written application with the NDPI. The NDPI shall conduct a preliminary examination, and then it shall, in accordance with the functions as prescribed in the second paragraph of Article 3 of the present Regulation, timely report it to the administrative department of science, technology and industry for national defense of the State Council or the GAD for examination and approval.

The administrative department of science, technology and industry for national defense of the State Council or the GAD shall make a decision of approval or disapproval within 30 days after the NDPI accepts an application. If it makes a decision of disapproval, it shall give a written notice and an explanation therefor to the applicant.

Where an applicant is approved of transferring the right to apply for a national defense patent or the right of a national defense patent, the parties concerned shall sign a written contract and shall have it registered in the NDPI. The NDPI shall publish it on its Internal Bulletin for National Defense Patent. The right to apply for the national defense patent or the transference of the right of the national defense patent shall be valid from the registration date.

Article 8 - It is prohibited to transfer the right to apply for a national defense patent or the right of a national defense patent to an entity or individual outside China, or to a foreigner or foreign institution within China.

Article 9 - Anyone who needs to entrust a patent agency to apply for a national defense patent or to handle other matters related to national defense patent shall entrust a patent agency designated by the NDPI to do so. The patent agency and its personnel shall be obliged to keep confidential the state secrets they learn in handling the national defense patent application and other matters related to national defense patent.

CROATIA: *Article 6 of the Data Secrecy Act of 13/07/2007*

Article 6

Secrecy degree TOP SECRET shall be used to classify data whose unauthorised disclosure would result in exceptionally grave damage to national security and vital interests of the Republic of Croatia, and especially to the following values:

- basis of the structure of the Republic of Croatia as laid down by the Constitution
- independence, integrity and security of the Republic of Croatia
- international relations of the Republic of Croatia
- defence capability and security intelligence system
- public security
- basis of the economic and financial system of the Republic of Croatia
- scientific discoveries, inventions and technologies that are of great significance for the national security of the Republic of Croatia.

CUBA: *Articles 84 to 90 of the Decree-Law No. 290 of November 20, 2011 on Inventions and Industrial Designs and Models*

SECCIÓN TERCERA

Invencciones no accesibles al público

ARTÍCULO 84.1.- Una solicitud de patente o registro de modelo de utilidad puede considerarse como no accesible al público si su divulgación resultara perjudicial para los intereses de la seguridad y la defensa nacional.

2. la presentación y tramitación de las solicitudes de invenciones no accesibles al público se llevan a cabo conforme a las disposiciones vigentes sobre la Seguridad y Protección de la Información Oficial.

3. Corresponde al solicitante promover la tramitación de la solicitud como invención no accesible al público.

ARTÍCULO 85.- A instancia de la Oficina, el Ministerio de las Fuerzas Armadas Revolucionarias ratifica o no la condición de no accesible al público de la solicitud, dentro del término de ciento ochenta días, contados a partir de su notificación a la persona competente.

ARTÍCULO 86.-Si el Ministerio de las Fuerzas Armadas Revolucionarias ratifica la condición de no accesible al público de la solicitud, tal decisión se le comunica al solicitante y la solicitud no se examina hasta tanto deje de ser de interés para la defensa nacional.

ARTÍCULO 87.- Si el Ministerio de las Fuerzas Armadas Revolucionarias no ratifica la condición de no accesible al público de la solicitud, tal decisión se le notifica al solicitante para que modifique la petición de la misma como invención no accesible al público y continúa el trámite común al resto de las solicitudes.

ARTÍCULO 88.- La condición de no accesible al público no exonera al solicitante o titular del pago de las tarifas establecidas en el presente Decreto-Ley.

ARTÍCULO 89.- La invención objeto de una solicitud no accesible al público no puede ser presentada en el extranjero a partir de que tenga dicho carácter. Tampoco puede ser divulgada por el solicitante y la cesión, transmisión y explotación están condicionadas a la previa autorización del Organismo competente.

ARTÍCULO 90.- 1. Si dentro del término de vigencia establecido en el presente Decreto-Ley, la divulgación de la solicitud no accesible al público deja de ser perjudicial para los intereses de la defensa nacional, se continúa el trámite común al resto de las solicitudes.

2. La solicitud de patente o registro de modelo de utilidad ratificada como no accesible al público se publica en el Boletín Oficial de la propiedad Industrial, en los términos establecidos en este Decreto-Ley, haciendo referencia únicamente al número de la solicitud y a su condición de no accesible al público.

CYPRUS:

No provision of law on security measures in the Patents Law of 1998

CZECH REPUBLIC: *Section 5 (3), 24 (4) of the Law No. 527/1990 of 27/11/1990 on Inventions and Rationalization Proposals (as last amended by Act No. 207/2000 Coll.)*

Section 5
Novelty

(3) The state of the art shall also comprise the content of applications for inventions filed in the Czech Republic which enjoy earlier priority and have been published on or after the date from which the priority right belongs to the applicant (Section 31). This provision shall also apply to the international applications of inventions with the earlier right of priority, where the Office acts as a designated Office, and to the European patent applications (Section 35a) with the earlier right of priority where the Czech Republic is a validly designated state. Invention applications kept secret under special provisions shall be considered to have been published on expiry of an 18-month period as from the date on which the priority right began.

Section 24
Invention Application

(4) If the European patent application or the international application contains matters that are kept secret under special regulations, the applicant shall file the application with the Office together with the approval issued by the National Security Office.

DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

No provision of law on security measures in the Invention Law of 13/05/1998 as last amended by Decree No. 597 of 11/03/1999,

DEMOCRATIC REPUBLIC OF THE CONGO: *Articles 39 to 46 of the Law No. 82-001 of 07/01/1982 on Industrial Property*

Art.39. Inventions and discoveries by Congolese nationals as well as those by foreigners residing in the Democratic Republic of Congo of particular significance for the national

interest may be declared secret. They may concern any field, especially that of national defense and security.

Art.40.If an invention or discovery is declared secret, the applicant shall be informed accordingly, without delay, by registered letter. From this moment on, the grant of the corresponding patent or incentive certificate shall be suspended, in addition to its being prohibited, unless there is an express authorization:

1. to make public the invention or discovery which is the subject of the application for a patent or incentive certificate;
- 2.to disclose the industrial secret;
- 3.to file a corresponding patent application abroad. If, at the time of notification, the same invention has already been the subject of one or more patent applications abroad, the Congolese State shall solicit, under Articles 45 and 46, the postponement of the grant of the foreign patent;
- 4.to issue a copy of secret filings;
- 5.to exploit freely the secret invention or discovery.

Art.41.The authorization referred to in Article 40 shall be granted by means of a decree issued by the Minister responsible for industrial property or his delegate, on the advice of the Minister of the Ministry concerned.

Art.42.If they deem it necessary for the national interest, the Ministers of the Ministries concerned may temporarily organize the conditions for exploitation of the secret inventions or discoveries and those for implementation of the industrial secrets.
If it has been established that these measures are insufficient, they may temporarily ban the exploitation of the secret inventions or discoveries or the implementation of the industrial secrets; reserve temporarily and exclusively or not for the State the right to exploit an invention patent or an incentive certificate; or oblige the party concerned to assign to the State full knowledge of a nonpatented invention or industrial secret.

The provisions of Article 57 shall not apply to secret inventions and discoveries.

Art.43.Within a period of six months, starting from the date of filing of the application for a patent or an incentive certificate, the Minister(s) referred to in Article 41 shall decide on the secret filing and shall notify his/their decision to the applicant without delay.

This period may not be extended more than twice.

In the event of extension, the applicant shall be notified accordingly. If no decision has been taken by the expiration of the deadlines provided for in paragraphs 1 and 2 of this Article, the applicant shall be entitled to compensatory payment proportionate to the damage suffered. Failing amicable agreement, such compensation, regardless of the amount, shall be set by the competent court, in accordance with this Law and its enabling measures.

Art.44.The author or holder of a secret invention or discovery shall receive fair compensation, with the amount and payment modalities to be determined by the enabling measures.

Art.45.Without prejudice to the provisions of Article 3 of this Law, reciprocity agreements may be concluded between the Democratic Republic of Congo and other States for the mutual safeguarding of the secrecy of inventions which are the subject of patent applications of interest for national defense or the security of their respective territories.

Art.46. In the event that, in accordance with Article 45, a reciprocity agreement has been signed with the Congolese State covering the disclosure of an invention which is the subject of a patent application, the Minister responsible for industrial property or his Delegate shall refrain, at the request of this State or that of the applicant – which shall establish proof of the intervention – from communicating this invention to the public and from issuing copies, as long as this prohibition is in force.

DENMARK: *Section 70 of the Consolidated Patents Act No. 108 of 24/01/2012 and Sections 1, 2, 2a and 3 of the Consolidate Secret Patents Act No. 107 of 24/01/2012*

70.- For inventions relating to war material or processes for the manufacture of war materiel, secret patents may be granted in accordance with the special provisions laid down to that effect

Consolidate Secret Patents Act No. 107 of 24/01/2012

1.- (1) For inventions relating to war materiel or processes for the manufacture of war materiel secret patents may be granted in accordance with the provisions below.

(2) For the purposes of this Act the meaning of “war materiel” shall be defined by Royal decree.

2. If required for the sake of the defence of the country, the Minister of Business and Growth may at the request of the Minister of Defence decide that a patent for an invention comprehended by section 1 shall be granted as a secret patent, provided that the application for a patent for the said invention has been filed by a person or an enterprise residing in this country or by a Danish institution.

2. a.-(1) For an invention comprehended by section 1 and owned by a person or an enterprise residing in this country or by a Danish institution patent protection may not be sought on the basis of an international or a European application designating Denmark or being changed after the filing to designate Denmark, unless the application is filed through the Patent Authority of this country.

(2) If it is decided that a patent for the invention in this country may be granted only as a secret patent, the application may not be proceeded with as an international or a European application without the authorization of the Minister of Defence. If such authorization is not given, the applicant may convert the application into an application for a patent in Denmark only; in that case the provisions of Part III and Part XA of the Patents Act concerning conversion shall apply *mutatis mutandis*.

3.-(1) An invention comprehended by section 1 and being the subject of an application for a patent filed by a person or an enterprise residing in this country or by a Danish institution may not be published, disclosed to others or made the subject of an application for a patent, for the registration of a utility model or for any other protection in a foreign state without the authorization of the Minister of Defence. Neither may rights attached to such application be transferred to others by agreement or by legal proceedings without the consent of the Minister of Defence.

(2) The provisions of subsection (1) shall not apply after the expiry of 3 months from the filing of the application, unless it has been decided that a patent, if granted, shall be granted as a secret patent or the applicant has been notified that the matter has not been finally decided upon and that, consequently, the provisions of subsection (1) will be applicable for a further 3 months.

DJIBOUTI:

No provision of law on security measures related to patent in the Law No. 50/AN/09/6th L on the Protection of Industrial Property

DOMINICA:

No provision of law on security measures related to patent in the Patents Act, Act 8 of 1999

DOMINICAN REPUBLIC:

No provision of law on security measures related to patent in the Law No. 20-00 on Industrial Property as last amended by Law No. 424-06

ECUADOR:

No provision of law on security measures related to patent in the Intellectual Property Law (Consolidation No. 2006-13)

EGYPT: Articles 17 and 25 of the Law No. 82 of 2002 Pertaining to the Protection of Intellectual Property Rights, Patents of Invention, Utility Models, Layout Designs of Integrated Circuits and Undisclosed Information

Article 17:

The Patent Office shall deliver to the Ministry of Defense, the Ministry of Military Production, the Ministry of Interior or the Ministry of Health, as necessary, copies of the applications for patents pertaining to defense, military production, or public security or patents of military, security or health value; together with the attachments to such application, within ten days after the date of completion of the examination.

The applicant shall be notified in this respect, within seven days from the date of delivery.

The Minister of Defense, the Minister of Military Production, the Minister of Interior, or the Minister of Health, as necessary, may oppose against the announcement of the acceptance of the patent application, within ninety days from the date of delivery.

The Competent Minister, as the case requires, may oppose, after announcing the acceptance of the patent application, against proceeding with the issuance of the patent, if it appears to the Minister that the application relates to defense, military production or public security affairs; or that the application has military, security or health value. Opposition shall be lodged within ninety days from the date of publishing the acceptance of the application for Patent in the Patents Gazette.

Oppositions in the above mentioned cases shall result in the stay of procedures of issuing the patent.

Article 25:

The patent of the invention may be expropriated for reasons relating to national security, and in cases of extreme urgency in which compulsory license may not be sufficient to cope with them based upon a decision from the competent Minister - and after the approval of the Ministerial Committee referred to in Article (23) of the law herein.

The expropriation may be limited to the expropriation of the right of the exploitation of the invention for the needs of the State.

In all cases, the expropriation shall be in return of equitable compensation. The estimation of the compensation shall be through the Committee provided for in article (36) of the law herein, and in accordance with the prevalent economic value at the time of issuance of the expropriation decision.

The expropriation decision shall be published in the Patent Gazette. The appeal of the expropriation decision and of the decision of the committee relating to the estimation of the compensation shall be before the Administrative Court, within sixty days from the date of the notification of the interested party with the decision pursuant to a letter delivered by registered mail with a return receipt.

The court shall promptly settle such appeal.

EL SALVADOR

No provision of law on security measures related to patent in the Law on the Promotion and Protection of Intellectual Property Rights (Legislative Decree No. 604 of 15/07/1993), as last amended by Legislative Decree No. 912 of 14/12/2005

ESTONIA: § 18 and § 19 (4) and (5) of the Patent Act (Act No. RT I 1994, 25, 406, as last amended by Act No. RT I, 28.12.2011, 1)

§ 18. Compensation for classified inventions relating to national defence

(1) In the case of an invention relating to national defence classified on the initiative of the Minister of Defence, the proprietor of the patent and the author have the right to receive, during the period when the invention is classified, compensation for the restriction on the use of the invention due to classification. The author does not have the right to receive the aforesaid compensation if he or she has transferred this right.

(2) The payment and the amount of the compensation shall be decided by the Minister of Defence, taking into account, inter alia:

1) the estimated service life of the invention when classified;

2) the commercial profit which the author or the proprietor of the patent would presumably gain from the use of the invention if the invention was not classified.

(3) Compensation may be paid as a lump sum payment or in instalments.

(4) The specific conditions and procedure for the payment of compensation may be established by a regulation of the Minister of Defence.

(5) The author or the proprietor of the patent has no right to receive the compensation specified in subsections (1) – (4) of this section if the author or the proprietor of the patent has agreed separately with the Ministry of the Defence on his or her remuneration for the use of the classified invention for national defence purposes.

(6) Disputes over the amount of compensation and remuneration shall be settled by Harju County Court.

§ 19. Patent application

(2) The following documents shall be annexed to a patent application:

4) an application for classifying the patent application and a certificate of the Ministry of Defence or a competent authority of a foreign state concerning classification of the invention if the patent application contains either an invention relating to national defence classified by the Minister of Defence or an invention classified in the foreign state the application for the patenting of which has been submitted on the basis of an international agreement;

5) the permission of the competent authority of the foreign state for patenting the invention in the Republic of Estonia if the invention is classified in a foreign state and the application for classifying specified in clause 4) of this subsection is submitted by the applicant instead of the competent authority of the foreign state.

ETHIOPIA:

No provision of law on security measures related to patent in the Inventions, Minor Inventions and Industrial Designs Proclamation No. 123/1995 of 10/05/1995

FINLAND: Sections 75 and 76 of the Patents Act of No. 550 of 15/12/1967 as last amended on 17/06/2011 and Sections 1 and 2 of the Act on Inventions of Importance to the Defence of the Country No 551 of 15/12/1967 as last amended in 1997

Section 75 If the country is at war or in danger of war, the Government may decree, where required by the public interest, that the right to a given invention shall be surrendered to the State or to another party designated by the Government. Reasonable compensation shall be paid for the right to the invention thus surrendered. If no agreement is reached on compensation with the party entitled to compensation, the court shall determine the compensation.

Where a party other than the State has availed itself of the right to an invention pursuant to subsection (1) above and if such party does not fulfill its obligations with regard to compensation, the State shall pay the compensation without delay on request by the party entitled to compensation.

Section 76 Special regulations shall apply to inventions of importance to the defense of the country.

Act on Inventions of Importance to the Defence of the Country

Section 1

An invention which is principally of importance to the defence of the country and which, from the point of view of national defence, it is important to keep secret, may under this Act, after a patent application has been filed for the invention, by government decision be expropriated for public purpose.

A reasonable compensation shall be payable from public funds to the holder of an invention expropriated for public purpose under the first subsection. Where the amount of the compensation is not agreed on, the holder of the invention may bring a separate action for the compensation in the Helsinki District Court.

The provisions concerning patents or patent applications of this Act shall *mutatis mutandis* apply to utility models or utility model applications. In such cases, section 18 of the Utility Model Act shall be applicable in place of the provisions of sections 21 and 22 of the Patents Act.

Section 2

If it is obvious that an invention is principally of importance to the defence of the country, an inventor residing in Finland, or his successor in title, may not apply for or authorise another person to apply for a patent for the invention abroad before an application has been filed for a patent for the invention in Finland and before six months have passed from the date the patent application was filed here.

If it is obvious that an invention is principally of importance to the defence of the country, an inventor residing in Finland, or his successor in title, shall file a European patent application within the meaning of the European Patent Convention (Finnish Treaty Series 8/96) or an international patent application under chapter 3 of the Finnish Patents Act with the Finnish Patent Authority.

FRANCE: Articles L612-8, L612-9, L612-10, L613-20 and L613-21 of the legislative part and Articles from R612-26 to R612-32 of the Regulation Part of the Intellectual Property Code as on 17/09/2012

Section 2 : Instruction des demandes

Article L612-8

Le ministre chargé de la défense est habilité à prendre connaissance auprès de l'Institut national de la propriété industrielle, à titre confidentiel, des demandes de brevet.

Article L612-9

Les inventions faisant l'objet de demandes de brevet ne peuvent être divulguées et exploitées librement aussi longtemps qu'une autorisation n'a été accordée à cet effet.

Pendant cette période, les demandes de brevet ne peuvent être rendues publiques, aucune copie conforme de la demande de brevet ne peut être délivrée sauf autorisation, et les procédures prévues aux articles L. 612-14, L. 612-15 et au 1° de l'article L. 612-21 ne peuvent être engagées.

Sous réserve de l'article L. 612-10, l'autorisation prévue au premier alinéa du présent article peut être accordée à tout moment. Elle est acquise de plein droit au terme d'un délai de cinq mois à compter du jour du dépôt de la demande de brevet.

Les autorisations prévues aux premier et deuxième alinéas du présent article sont accordées par le ministre chargé de la propriété industrielle sur avis du ministre chargé de la défense.

Article L612-10

Avant le terme du délai prévu au deuxième alinéa de l'article L. 612-9, les interdictions édictées à l'alinéa premier dudit article peuvent être prorogées, sur réquisition du ministre chargé de la défense, pour une durée d'un an renouvelable. Les interdictions prorogées peuvent être levées à tout moment, sous la même condition.

La prorogation des interdictions édictées en vertu du présent article ouvre droit à une indemnité au profit du titulaire de la demande de brevet, dans la mesure du préjudice subi. A défaut d'accord amiable, cette indemnité est fixée par le tribunal de grande instance. A tous les degrés de juridiction, les débats ont lieu en chambre du conseil.

Une demande de révision de l'indemnité prévue à l'alinéa précédent peut être introduite par le titulaire du brevet à l'expiration du délai d'un an qui suit la date du jugement définitif fixant le montant de l'indemnité.

Le titulaire du brevet doit apporter la preuve que le préjudice qu'il subit est supérieur à l'estimation du tribunal.

Article L613-20

L'Etat peut, à tout moment, par décret, exproprier, en tout ou partie, pour les besoins de la défense nationale, les inventions, objet de demandes de brevet ou de brevets.

A défaut d'accord amiable, l'indemnité d'expropriation est fixée par le tribunal de grande instance.

A tous les degrés de juridiction, les débats ont lieu en chambre du conseil.

Article L613-21

La saisie d'un brevet est effectuée par acte extra-judiciaire signifié au propriétaire du brevet, à l'Institut national de la propriété industrielle ainsi qu'aux personnes possédant des droits sur le brevet ; elle rend inopposable au créancier saisissant toute modification ultérieure des droits attachés au brevet.

A peine de nullité de la saisie, le créancier saisissant doit, dans le délai prescrit, se pourvoir devant le tribunal, en validité de la saisie et aux fins de mise en vente du brevet.

Partie Réglementaire

Sous-section 1 : Demandes intéressant la défense nationale

Article R612-26

Des délégués du ministre chargé de la défense nationale, spécialement habilités à cet effet et dont les noms et qualités ont été portés à la connaissance du ministre chargé de la propriété industrielle par le ministre chargé de la défense nationale prennent connaissance dans les locaux de l'Institut national de la propriété industrielle des demandes de brevet déposées.

Celles-ci leur sont présentées dans le délai de quinze jours à compter de la date de leur réception à l'Institut national de la propriété industrielle.

Article R612-27

La demande d'autorisation de divulguer et d'exploiter librement l'invention objet d'une demande de brevet, avant le terme du délai de cinq mois prévu à l'article L. 612-9, est formulée auprès de l'Institut national de la propriété industrielle ; elle peut l'être dès le dépôt de la demande de brevet. L'autorisation est notifiée au demandeur par le ministre chargé de la propriété industrielle.

En l'absence d'une telle autorisation et à tout moment, une demande d'autorisation particulière en vue d'accomplir des actes déterminés d'exploitation peut être adressée directement par le demandeur de brevet au ministre chargé de la défense nationale. Celui-ci, s'il accorde l'autorisation sollicitée, précise les conditions auxquelles ces actes d'exploitation sont soumis.

Si l'autorisation particulière porte sur la cession de la demande de brevet ou sur la concession d'une licence d'exploitation, le ministre chargé de la défense nationale notifie copie de sa décision au ministre chargé de la propriété industrielle.

Article R612-28

La réquisition adressée au ministre chargé de la propriété industrielle par le ministre chargé de la défense nationale aux fins de prorogation des interdictions de divulgation et de libre exploitation d'une invention objet de demande de brevet doit parvenir à l'Institut national de la propriété industrielle au plus tard quinze jours avant le terme du délai de cinq mois rappelé à l'article R. 612-27.

Toute réquisition aux fins de renouvellement d'une prorogation doit parvenir dans les mêmes conditions au plus tard quinze jours avant l'expiration de la période d'un an en cours.

La prorogation des interdictions de divulgation et de libre exploitation est prononcée par arrêté du ministre chargé de la propriété industrielle et notifiée au déposant avant le terme de la période d'interdiction en cours.

L'arrêté peut contenir des dispositions particulières autorisant, sous certaines conditions, le dépôt à l'étranger des demandes de protection de l'invention. Une demande à cet effet doit avoir été adressée par le titulaire de la demande de brevet au ministre chargé de la défense nationale, qui fait part de sa décision au ministre chargé de la propriété industrielle.

Des autorisations particulières en vue d'accomplir des actes déterminés d'exploitation peuvent être accordées dans les conditions prévues aux deuxième et troisième alinéas de l'article R. 612-27.

Le ministre chargé de la défense nationale peut faire connaître à tout moment au ministre chargé de la propriété industrielle la levée des interdictions prorogées en application de l'article L. 612-10. Cette mesure fait l'objet d'un arrêté du ministre chargé de la propriété industrielle notifié au titulaire de la demande de brevet.

Article R612-29

La requête en indemnité tendant à la réparation du préjudice causé par la prorogation des interdictions de divulgation et de libre exploitation est adressée par le propriétaire de la demande de brevet au ministre chargé de la défense nationale par lettre recommandée avec demande d'avis de réception. La requête précise, en les chiffrant, les divers chefs de préjudice invoqués.

Le tribunal de grande instance ne peut être saisi en vue de la fixation de l'indemnité avant l'expiration d'un délai de quatre mois à compter de la date de réception de la requête, sauf au cas où une décision expresse est intervenue au cours dudit délai.

Article R612-30

La juridiction saisie en vertu de l'article L. 612-10 statue tant au fond qu'avant-dire-droit par des décisions qui ne contiennent aucune analyse de l'invention de nature à en entraîner la divulgation.

Seuls le ministère public, les parties ou leurs mandataires peuvent obtenir copie des décisions rendues.

Si une expertise est ordonnée, elle ne peut être effectuée que par des personnes habilitées par le ministre de la défense.

Article R612-31

Si les interdictions de divulgation et de libre exploitation prennent fin plus d'une année après la date du dépôt, la demande ne peut être rendue publique dans les conditions prévues à l'article R. 612-39 qu'après l'expiration d'un délai de six mois à compter du terme de

l'application des mesures d'interdiction, sauf si dans ce délai le demandeur a présenté la requête prévue à l'article R. 612-39.

Le demandeur dispose d'un délai de six mois à compter du terme des mesures d'interdiction pour requérir l'établissement du rapport de recherche ou la transformation de sa demande de brevet en demande de certificat d'utilité.

Article R612-32

Les dispositions de l'article R. 612-29 sont applicables à la demande de révision de l'indemnité prévue à l'article L. 612-10.

GAMBIA:

No provision of law on security measures related to patents in the Industrial Property Act of 1989 as last amended on 02/04/2007

GEORGIA: *Article 7 of the Law on Patents of 05/02/1999 as last amended in 2010 and Article 2 of the Law on State Secrets of 29/10/1996 as last amended in 1999*

ARTICLE 7. Confidentiality of an Invention

1. Sakpatenti grants patent in respect of an invention that is rendered confidential by competent authority for purposes of state defense only after such authority decides on declassification of an invention.
2. An invention can be kept secret for no longer than 2 years, which can be extended multiple times during validity of patent by term(s) determined by this paragraph.
3. repealed;
4. In case of rendering an invention secret, appropriate compensation is paid to the inventor in the amount and through the procedures determined by normative act of a competent authority.

Article 2. Legislation of Georgia on State Secrets

1. This Law and other normative acts shall constitute the legislation of Georgia on state secrets.
2. The legislation of Georgia on state secrets shall not apply to the relations with respect to protection of commercial, bank, financial, scientific-technical and invention-related secrets or other types of secret information unless such information simultaneously constitutes a state secret.

GERMANY: *Section 13 of the Patent Law of 05/05/1936 as last amended by the Law of 31/07/2009*

Section 13

(1) A patent shall have no effect should the Federal Government order that the invention is to be used in the interest of public welfare. Nor shall the effect of a patent extend to any use of the invention ordered in the interests of the security of the Federal Republic by the competent highest federal authority or, on the latter's instructions, by a subordinate agency.

(2) Should an order under subsection (1) be challenged, the Federal Administrative Court [Bundesverwaltungsgericht] shall have jurisdiction if said order was issued by the Federal Government or the competent highest federal authority.

(3) In those cases referred to in subsection (1), the patentee shall have a claim against the Federal Republic for reasonable compensation. In the event of dispute as to the amount, legal action may be brought before the ordinary civil courts. Any order by the Federal Government under the first sentence of subsection (1) shall be communicated to the person recorded as patentee in the Register (Section 30(1)) before the invention is used. If the highest federal authority that has issued an order or an instruction under the second sentence of subsection (1) becomes aware that a claim for compensation has arisen under the first sentence, said highest federal authority shall communicate this to the person recorded in the Register as patentee.

GHANA:

No provision of law on security measures related to patents in the Patent Act, Act 657 of 2003

GREECE:

Law No. 4325/1963 on the Inventions Concerning the National Defence and Ministerial Decision 56200 of 1964

GUATEMALA:

No provision of law on security measures related to patents in the Industrial Property Law, Approved by Decree No. 57-2000

GUINEA BISSAU:

No provision of law on security measures related to patents in the Industrial Property Code (approved by Decree-Law No. 6/96 of March 3, 1996)

GUYANA: *Sections 33 and 34 of the Patents and Designs Act - Cap. 90:03 of 1937 (current version of 1972)*

Right of State to use patented inventions

33. (1) A patent shall have to all intents the like effect as against the State as it has against a citizen: Provided that any Government department may, by themselves or by such of their agents, contractors, or others as may be authorized in writing by them at any time after the application, make, use or exercise the invention for the services of the State on such terms as may, either before or after the use thereof, be agreed on, with the approval of the Minister responsible for such department, between the department and the patentee, or, in default of agreement, as may be settled in the manner hereinafter provided. And the terms of any agreement or licence concluded between the inventor or patentee and any person other than a Government department, shall be inoperative so far as concerns the making, use or exercise of the invention for the service of the State:

Provided further that, where an invention which is the subject of any patent has, before the date of the patent, been duly recorded in a document by, or tried by or on behalf of, any

Government department (such invention not having been communicated directly or indirectly by the applicant for the patent or the patentee), any Government department, or such of their agents, contractors, or others as may be authorised in writing by them, may make, use and exercise the invention so recorded or tried for the service of the State free of any royalty or other payment to the patentee, notwithstanding the existence of the patent. If in the opinion of the department the disclosure to the applicant or the patentee, as the case may be, of the document recording the invention, or the evidence of the trial thereof, if required, would be detrimental to the public interest, it may be made confidentially to counsel on behalf of the applicant or patentee, or to any independent expert mutually agreed upon.

(2) The power of a Government department under subsection (1) to make, use or exercise an invention for the services of the State shall include power during any war period to make, use, exercise or vend an invention, upon such terms as are mentioned in the said subsection (1), for any purpose which appears to the department necessary or expedient for the efficient prosecution of any war in which the Government may be engaged or for the maintenance of supplies and services essential to the life of the community; and the terms of any such agreement or licence as is mentioned in the said subsection (1) shall be inoperative so far as concerns the making, use, exercise or vending of an invention under this subsection as they are inoperative so far as concerns the making, use or exercise of an invention under that subsection.

(3) For the purposes of subsection (2) the expression "war period" means any period beginning with such date as may be declared by order of the Minister responsible for defence to be the commencement, and ending with such date as may be so declared to be the termination, of a war period for the purpose of this section; and nothing in subsection (5) of this section shall affect the right to vend an invention conferred by subsection (2).

(4) In case of any dispute as to the making use, exercise or vending of an invention under this section, or the terms therefor, or as to the existence or scope of any record or trial. as aforesaid, the matter shall be referred to the Court for decision, which shall have power to refer the whole matter or any question or issue of fact arising thereon to be tried before an arbitrator upon such terms as it may direct. The Court or arbitrator, as the case may be, may, with the consent of the parties, take into consideration the validity of the patent for the purposes only of the reference and for the determination of the issues between the applicant and such Government department.

The Court or arbitrator further in settling the terms as aforesaid, shall be entitled to take into consideration any benefit or compensation which the patentee, or any other person interested in the patent, may have received directly or indirectly from the State or from any Government department in respect of such patent.

(5) The right to use an invention for the services of the State under this section or any provisions for which this section is substituted shall include, and shall be deemed always to have included, the power to sell any articles made in pursuance of such right which are no longer required for the services of the State.

(6) A purchaser of any article sold in pursuance of subsection (2) or subsection (5), and any person claiming through him, shall have, and be deemed always to have had, power to deal with the articles in like manner as if the patent for the invention were held on behalf of the State.

(7) Nothing in this section shall affect the right of the State or of any person deriving title directly or indirectly from the State to sell or use any articles forfeited under the laws relating to the customs or excise.

Assignment to Minister of certain inventions

34. (1) The inventor of any improvement in instruments or munitions of war may (either for or without valuable consideration) assign to the Minister on behalf of the State all the benefit of the invention and of any patent obtained or to be obtained for the invention; and the Minister may be a party to the assignment.

(2) The assignment shall effectually vest the benefit of the invention and patent in the Minister on behalf of the State and all covenants and agreements therein contained for keeping the invention secret and otherwise shall be valid and effectual (notwithstanding any want of valuable consideration), and may be enforced accordingly by the Minister.

(3) Where any such assignment has been made, the Minister may at any time before the publication of the complete specification certify to the Registrar that, in the interest of the public service, the particulars of the invention and of the manner in which it is to be performed should be kept secret.

(4) If the Minister so certify the application and specifications, with the drawings (if any), and any amendment of the complete specification, and any copies of such documents and drawings shall, instead of being left in the ordinary manner at the Patent Office, be delivered to the Registrar in a packet sealed by authority of the Minister.

(5) The packet shall, until the expiration of the term during which a patent for the invention may be in force, be kept sealed by the Registrar, and shall not be opened save under the authority of an order of the Minister.

(6) The sealed packet shall be delivered at any time during the continuance of the patent to any person authorised by the Minister to receive it, and shall if returned to the Registrar be again kept sealed by him.

(7) On the expiration of the term of the patent, the sealed packet shall be delivered to the Minister.

(8) Where the Minister certifies as aforesaid, after an application for a patent has been left at the Patent Office, but before the publication of the complete specification, the application and specifications, with the drawings- (if any), shall be forthwith placed in a packet sealed by authority of the Registrar, and the packet shall be subject to the foregoing provisions respecting a packet sealed by authority of the Minister.

HONDURAS:

No provision of law on security measures related to patents in the Industrial Property Law (approved by Decree No. 12-99-E) of 30/12/1999

HUNGARY: Article 53 (5) of the Act XXXIII of 1995 on the protection of inventions by patents (consolidated text of 15/03/2014) and Decree No. 141 of 2008 (V. 16.) on the Detailed Rules of the Procedure to Declare a Patent Application a State Secret (version 2011: text available only in Hungarian)

Access to file. Article 53

(5) If national defence or national security so require, the President of the Hungarian Intellectual Property Office may classify a patent application in a procedure under specific legislation and on the proposal of the minister competent under the provisions of the specific legislation.

ICELAND: Article 70 of the Patents Act No. 17/1991, as last amended by Act No. 126/2011

Article 70

In a case of extreme necessity in the event of an emergency due to natural disaster, war or imminent risk of war, [the Minister] may direct that all rights for the exploitation of an invention devolve on the state or any other party that the Minister directs. Full compensation shall be payable for such a transfer but if no agreement can be reached on the amount of compensation a decision shall be made according to criteria laid down in Act no. 11/1973.

If, on the grounds referred to in Paragraph 1, the right to exploit an invention is transferred to a party other than the state and if the said party fails to pay the appropriate compensation the state is obliged, on demand of the party who has right to compensation, to pay the amount without delay.

INDIA: *Sections 4 and 35 to 42 of the Patents Act of 1970 as last amended by Act no. 15 of 2005, Rules 71 and 72 of the Patent Rules of 2003 and Section 20 of the Atomic Energy Act of 1962*

4. Inventions relating to atomic energy not patentable

No patent shall be granted in respect of an invention relating to atomic energy falling within sub-section (1) of Section 20 of the Atomic Energy Act, 1962.

CHAPTER VII PROVISIONS FOR SECRECY OF CERTAIN INVENTIONS

35. Secrecy directions relating to inventions relevant for defence purposes.—

(1) Where, in respect of an application made before or after the commencement of this Act for a patent, it appears to the Controller that the invention is one of a class notified to him by the Central Government as relevant for defence purposes, or, where otherwise the invention appears to him to be so relevant, he may give directions for prohibiting or restricting the publication of information with respect to the invention or the communication of such information.

(2) Where the Controller gives any such directions as are referred to in subsection (1), he shall give notice of the application and of the directions to the Central Government, and the Central Government shall, upon receipt of such notice, consider whether the publication of the invention would be prejudicial to the defence of India, and if upon such consideration, it appears to it that the publication of the invention would not so prejudice, give notice to the Controller to that effect, who shall thereupon revoke the directions and notify the applicant accordingly.

(3) Without prejudice to the provisions contained in sub-section (1), where the Central Government is of opinion that an invention in respect of which the Controller has not given any directions under sub-section (1), is relevant for defence purposes, it may at any time before grant of patent notify the Controller to that effect, and thereupon the provisions of that sub-section shall apply as if the invention were one of the class notified by the Central Government, and accordingly the Controller shall give notice to the Central Government of the directions issued by him.

36. Secrecy directions to be periodically reviewed.—

(1) The question whether an invention in respect of which directions have been given under section 35 continues to be relevant for defence purposes shall be reconsidered by the Central Government at intervals of six months or on a request made by the applicant which is found to be reasonable by the Controller and if, on such reconsideration it appears to the Central Government that the publication of the invention would no longer be prejudicial to the defence of India or in case of an application filed by a foreign applicant it is found that the invention is published outside India it shall forthwith give notice to the Controller to revoke the direction and the Controller shall thereupon revoke the directions previously given by him.

(2) The result of every re-consideration under sub-section (1), shall be communicated to the applicant within such time and in such manner as may be prescribed.

37. Consequences of secrecy directions.—

(1) So long as any directions under section 35 are in force in respect of an application—

(a) the Controller shall not pass an order refusing to grant the same; and

(b) notwithstanding anything contained in this Act, no appeal shall lie from any order of the Controller passed in respect thereof:

Provided that the application may, subject to the directions, proceed up to the stage of grant of the patent, but the application and the specification found to be in order for grant of the patent shall not be published, and no patent shall be granted in pursuance of that application.

(2) Where a complete specification filed in pursuance of an application for a patent for an invention in respect of which directions have been given under section 35 is found to be in order for grant of the patent during the continuance in force of the directions, then—

(a) if, during the continuance in force of the directions, any use of the invention is made by or on behalf of, or to the order of the Government, the provisions of sections 100,101 and 103 shall apply in relation to that use as if the patent had been granted for the invention; and

(b) if it appears to the Central Government that the applicant for the patent has suffered hardship by reason of the continuance in force of the directions, the Central Government may make to him such payment (if any) by way of solatium as appears to the Central Government to be reasonable having regard to the novelty and utility of the invention and the purpose for which it is designed, and to any other relevant circumstances.

(3) Where a patent is granted in pursuance of an application in respect of which directions have been given under section 35, no renewal fee shall be payable in respect of any period during which those directions were in force.

38. Revocation of secrecy directions and extension of time.—

When any direction given under section 35 is revoked by the Controller, then, notwithstanding any provision of this Act specifying the time within which any step should be taken or any act done in connection with an application for the patent, the Controller may, subject to such conditions, if any, as he thinks fit to impose, extend the time for doing anything required or authorised to be done by or under this Act in connection with the application whether or not that time has previously expired.

39. Residents not to apply for patents outside India without prior permission.—

(1) No person resident in India shall, except under the authority of a written permit sought in the manner prescribed and granted by or on behalf of the Controller, make or cause to be made any application outside India for the grant of a patent for an invention unless —

(a) an application for a patent for the same invention has been made in India, not less than six weeks before the application outside India; and

(b) either no direction has been given under sub-section (1) of section 35 in relation to the application in India, or all such directions have been revoked.

(2) The Controller shall dispose of every such application within such period as may be prescribed: Provided that if the invention is relevant for defence purpose or atomic energy, the Controller shall not grant permit without the prior consent of the Central Government.

(3) This section shall not apply in relation to an invention for which an application for protection has first been filed in a country outside India by a person resident outside India.

40. Liability for contravention of section 35 or section 39.—

Without prejudice to the provisions contained in Chapter XX, if in respect of an application for a patent any person contravenes any direction as to secrecy given by the Controller under section 35 or makes or causes to be made an application for grant of a patent outside India in contravention of section 39 the application for patent under this Act shall be deemed to have been abandoned and the patent granted, if any, shall be liable to be revoked under section 64.

41. Finality of orders of Controller and Central Government.—

All orders of the Controller giving directions as to secrecy as well as all orders of the Central Government under this Chapter shall be final and shall not be called in question in any court on any ground whatsoever.

42. Savings respecting disclosure to Government.—

Nothing in this Act shall be held to prevent the disclosure by the Controller of information concerning an application for a patent or a specification filed in pursuance thereof to the Central Government for the purpose of the application or specification being examined for considering whether an order under this Chapter should be made or whether an order so made should be revoked.

Atomic Energy Act of 1962

20. Special provision as to inventions:

- i. As from the commencement of this Act, no patents shall be granted for inventions which in the opinion of the Central Government are useful for or relate to the production, control, use or disposal of atomic energy or the prospecting, mining, extraction, production, physical and chemical treatment, fabrication, enrichment, canning or use of any prescribed substance or radioactive substance or the ensuring of safety in atomic energy operations.
- ii. The prohibition under sub-section (1) shall also apply to any invention of the nature specified in that sub-section in respect of which an application for the grant of a patent has been made to the Controller of Patents and Designs appointed under the Indian Patents and Designs Act, 1911, before the commencement of this Act and is pending with him at such commencement.
- iii. The Central Government shall have the power to inspect at any time any pending patent application and specification before its acceptance and if it considers that the invention relates to atomic energy, to issue directions to the Controller of Patents and Designs to refuse the application on that ground.
- iv. Any person, who has made an invention which he has reason to believe relates to atomic energy, shall communicate to the Central Government the nature and description of the invention.
- v. Any person desiring to apply for a patent abroad for an invention relating to or which he has reason to believe relates to atomic energy shall obtain prior permission from the Central Government before making the application abroad or communicating the invention to any

person abroad, unless three months have elapsed since his request for permission was made to the Central Government and no reply was received by him.

vi. The Controller of Patents and Designs shall have the power to refer any application to the Central Government for direction as to whether the invention is one relating to atomic energy and the direction given by the Central Government shall be final.

vii. Any invention in the field of atomic energy conceived whether in establishments controlled by the Central Government or under any contract, sub-contract, arrangement or other relationship with the Central Government shall be deemed to have been made or conceived by the Central Government, irrespective of whether such contract, sub-contract, arrangement or other relationship involves financial participation of or assistance from the Central Government.

viii. Notwithstanding anything contained in the Indian Patents and Designs Act, 1911, the decision of the Central Government on points connected with or arising out of this section shall be final.

CHAPTER VII SECRECY DIRECTIONS

71. Permission for making patent application outside India under section 39.—(1) The request for permission for making patent application outside India shall be made in Form 25. (2) The time within which the Controller dispose of the request made under sub-rule (1), except in case of inventions relating to defence and atomic energy applications, shall ordinarily be within a period of twenty one days from the date of filing of such request.

72. Communication of result of reconsideration under section 36(2).— (1) The result of every reconsideration under sub-section (1) of section 36 shall be communicated to the applicant for patent within fifteen days of the receipt of the notice by the Controller. (2) Extension of time on revocation of secrecy directions under section 38.—The extension of time to be given for doing anything required or authorised to be done under section 38 shall not exceed the period for which directions given by the Central Government under sub-section (1) of section 35 were in force.

INDONESIA: Articles 99 to 103 of the Patents Law No. 14 of 01/08/2001 and Articles 2, 3 and 4 of the Government Regulation No. 27 of 2004 regarding the Procedure of Exploitation of Patent by the Government

Article 99

If the Government is of the opinion that a Patent in Indonesia is very important for the conduct of defense and security of the State and for an urgent need for the sake of public interest, the Government may itself exploit the relevant Patent.

The decision to self-exploit a Patent shall be regulated by Presidential Decree after hearing the consideration from the Minister and from the minister or head of the agencies responsible in the relevant field.

Article 100

The provisions of Article 99 shall apply mutatis mutandis to any Invention for which a Patent has been requested but which has not been announced as referred to in Article 46.

Where the Government does not or has not yet intended to self-exploit a Patent as referred to in paragraph (1), the exploitation of such a Patent may only be undertaken with an approval from the Government.

The Patent Holder as referred to in paragraph (2) shall be released from the obligation to pay the annual fees until the relevant Patent is exploited.

Article 101

Where the Government intends to self-exploit a Patent that is important to the conduct of defense and security of the State and for an urgent need for the sake of public interest, the Government shall notify the Patent Holder in writing of this fact by setting forth:

- a. the title and number of the relevant Patent as well as the name of Patent Holder;
- b. reasoning;
- c. the period of exploitation;
- d. other matters that are deemed significant.

The exploitation of a Patent by the Government shall be carried out with the provision of reasonable compensation to the Patent Holder.

Article 102

The decision of the Government to self-exploit a Patent shall be final.

Where the Patent Holder does not agree with the amount of compensation stipulated by the Government, he may file objections as a lawsuit to the Commercial Court.

The process of examining the lawsuit as referred to in paragraph (2) shall not stop the exploitation of the relevant Patent by the Government.

Article 103

Provisions regarding the procedure of exploitation of Patent by the Government shall be further regulated by Government Regulation.

Government Regulation No. 27 of 2004 regarding the Procedure of Exploitation of Patent by the Government

Article 2

(1) In case that the government is in the opinion that a patent in Indonesia is very important for state defense and security, the government itself may exploit the patent.

(2) In case that the government is in the opinion that there is an urgent need for the public interest of a patent, the patent maybe exploited by the government.

(3) In the exploitation of a patent, as referred to in paragraphs (1) and (2), the government may authorize a third party to implement it.

(4) The third party referred to in paragraph (3), shall fulfill the following requirements:

- a. Having a facility and being able to exploit the patent;
- b. Not delegating the exploitation of patent to any other party; and
- c. Having good methods of production, circulation, and monitoring which is in accordance with prevailing laws and regulations.

Article 3

The exploitation of patent, as referred to in Article 2 paragraph (1) includes the exploitation of patent in the following fields:

- a. Fire guns;
- b. Ammunitions;
- c. Explosives used in the military;
- d. Chemical weapons;
- e. Biological weapons;
- f. Nuclear weapons; and
- g. Military equipments.

Article 4

The exploitation of patent, as referred to in Article 2 paragraph (2) includes the exploitation of paten in the following fields:

- a. Pharmaceutical products needed to eliminate wide- spreading disease;
- b. Chemical products related to agriculture; or

c. Medicine for animals needed to eliminate wide-spreading animal pests and diseases.

IRAN:

No provision of law on security measures related to patents in the Patents, Industrial Designs and Trademarks Registration Act of 29/10/2007

IRELAND:

No provision of law on security measures in relation to patents in the Patens Act of 1992 (consolidated version of 2012)

ISRAEL: *Articles 94 to 111 of the Patents Law 5727-1967, as consolidated in 2014*

Article One: Powers Required for National Defense

Restriction on Registrar's activities for national security

94. (a) The Minister of Defense may, by order, if he deems it necessary so to do in the interests of National security, including the protection of defense secrets, and after consultation with the Minister of Justice –

(1) order the Registrar to refrain from performing any act which he is required or permitted to do under this Law on a certain application, or to postpone its performance;

(2) prohibit or restrict the publication or release of information concerning a particular application, or in connection with the information in it.

(b) A copy of the order of the Minister of Defense shall be delivered to the applicant.

Transmission of certain applications to Minister of Defense

95. The Minister of Defense may direct the Registrar to transmit to a person he designated therefore a copy of applications of a certain category, and the Registrar may transmit to the Minister of Defense applications the matter of which appears to him to be relevant to National security or which includes a defense secret, all in order to enable the Minister to weigh whether an order under section 94 should be made in their respect; the Minister of Defense shall decide on every said application not later than four months after it was transmitted, and as long as he has not decided or as long as the said period has not expired, whichever is shorter, the Registrar shall not perform any act in respect of the said applications, except to acknowledge their submission under section 14.

Contestation of orders that restricts activities

96. (a) The applicant may contest an order under section 94 before a three member contestations committee appointed by the Minister of Justice, the members of which shall include a judge of the Supreme Court – the chairman of the committee – and a person recommended by the Minister of Defense.

(b) Notice of the appointment and address of the committee shall be published in the Official Gazette.

(c) Submitting the objection shall not stay implementation of the order.

(d) The contestations committee may confirm, change or cancel the order.

Right to further contestation

97. An applicant has the right to contest an order under section 94 as long as the order is in effect, and he may contest it again even after a decision was made on the contestation, if – in his opinion – the circumstances that existed at the time of the decision have changed; however, the committee may order the applicant to pay costs if, in its opinion, submitting a further contestation was not in place.

Restriction of right to submit patent applications abroad

98. An Israel national, a permanent resident of Israel or any other person who owes allegiance to the State shall not submit any application abroad for a patent for an invention the subject of which is weaponry or ammunition, or which is otherwise of military value, or for an invention with which section 95 deals, and he shall not – directly or indirectly – cause a said application to be submitted, unless one of the following applies:

- (1) he received written permission from the Minister of Defense in advance;
- (2) he submitted an application in respect of that invention in Israel and within six months after that application was submitted the Minister of Defense did not make an order on it under section 94, or he made such an order, but it is no longer in effect.

Article Two: Powers on Inventions that Relate to Nuclear Energy.

Restriction on activities that relate to nuclear energy

99. (a) If the Minister finds that an invention for which a patent application was submitted is important for the development of the use of nuclear energy in Israel, or that the publication of an invention is liable to cause damage to nuclear research in Israel, then he may, by order after consultation with the Minister of Justice –

- (1) order the Registrar to refrain from performing any act which he is required or permitted to do under this Law on the application, or to postpone its performance;
- (2) prohibit or restrict the publication or release of information concerning the application, or in connection with the information in it.

(b) A copy of the order of the Minister of Defense shall be delivered to the applicant.

Transmission of certain applications

100. The Minister may direct the Registrar to transmit to a person he designated therefore a copy of applications of a certain category, and the Registrar may transmit to the Minister applications in respect of which the Registrar thinks an order under section 99 would be proper, all in order to enable the Minister to weigh whether a said order should be made; the Minister shall decide on every said application not later than four months after it was transmitted, and as long as he has not decided or as long as the said period has not expired, whichever is shorter, the Registrar shall not perform any act in respect of the said applications, except to acknowledge their submission under section 14.

Contestation of order that restricts activities

101. (a) The applicant may contest an order under section 99 before a three member contestations committee appointed by the Minister of Justice, the members of which shall include a judge of the Supreme Court – the chairman of the committee – and a person recommended by the Prime Minister.

(b) Notice of the appointment and address of the committee shall be published in the Official Gazette.

(c) Submitting the objection shall not stay implementation of the order.

(d) The contestations committee may confirm, change or cancel the order.

Right to further contestation

102. An applicant has the right to contest an order under section 99 as long as the order is in effect, and he may contest it again even after a decision was made on the contestation, if – in his opinion – the circumstances that existed at the time of the decision have changed; however, the committee may order the applicant to pay costs if, in its opinion, submitting a further contestation was not in place.

Restriction of right to submit patent application abroad

103. An Israel national, a permanent resident of Israel or any other person who owes allegiance to the State shall not submit any application abroad for a patent for an invention with which section 100 deals, and he shall not – directly or indirectly – cause a said application to be submitted, unless one of the following applies:

(1) he received written permission from the Minister in advance;

(2) he submitted an application in respect of that invention in Israel and within six months after that application was submitted the Minister did not make an order on it under section 99, or he made such an order, but it is no longer in effect.

Article Three: Use of Inventions in the Interest of the State

Right of State to exploit invention

104. The Minister may permit the exploitation of an invention by Government departments or by an enterprise or agency of the State, whether a patent for it has or has not already been granted or has or has not already been applied for, if he finds that that is necessary in the interests of the National security or of the maintenance of essential supplies and services.

Right of State to permit exploitation of invention

105. The Minister may, if he finds that that is necessary for the purposes enumerated in section 104, grant a permit under that section to a person who operates under contract with the State, in order to ensure or facilitate the implementation of that contract and for the requirements of the State only.

Notice of Grant of exploitation permit

106. When a permit has been granted under this Article, the Minister shall notify the owner of the invention or the patent holder and the holder of the exclusive license that the permit was granted and the scope of the permitted use, unless National security requires otherwise.

Article Four: Obligation of the State to Pay Compensation and Royalties

Compensation for restriction of activities

107. If an order was made under section 94 or 99 or if a permit was not granted under section 98 or 103, then the Treasury shall pay to the owner of the invention compensation at the rate set by agreement between the parties or – in the absence of agreement – by the compensation and royalties committee established under section 109.

Royalties for use of patents by the State

108. If a permit was granted under sections 104 or 105, then the State Treasury shall pay to the owner of the invention, to the patent holder or to the holder of an exclusive license, as the case may be, royalties set by agreement between the parties or – in the absence of agreement – set by the compensation and royalties committee.

Compensation and royalties committee

109. The Minister of Justice shall appoint a committee on compensation and royalties, which shall decide on claims for compensation and royalties under this Article; the members of the committee shall be a Justice of the Supreme Court, the Registrar and an additional member from among the teachers at an institution of higher education, within its meaning in the Council for Higher Education Law 5718-1958.

Guidelines for determination of royalties

110. When it is about to determine royalties, the committee shall also consider the scope and character of the permitted exploitation, and it may take into account royalties stipulated in licenses, the conditions of which are similar to those of the permit.

Exclusive jurisdiction of committee

111. No Court or tribunal shall consider any matter within the jurisdiction of the compensation and royalties committee, and every decision by the committee shall be final.

ITALY: *Articles 141, 142 and 143 of the Industrial Property Code of 2005*

Art. 141.

Espropriazione

1. Con esclusione dei diritti sui marchi, i diritti di proprietà industriale, ancorche' in corso di registrazione o di brevettazione, possono essere espropriati dallo Stato nell'interesse della difesa militare del Paese o per altre ragioni di pubblica utilità.
2. L'espropriazione può essere limitata al diritto di uso per i bisogni dello Stato, fatte salve le previsioni in materia di licenze obbligatorie in quanto compatibili.
3. Con l'espropriazione anzidetta, quando sia effettuata nell'interesse della difesa militare del Paese e riguardi titoli di proprietà industriale di titolari italiani, e' trasferito all'amministrazione espropriante anche il diritto di chiedere titoli di proprietà industriale all'estero.

Art. 142.

Decreto di espropriazione

1. L'espropriazione viene disposta per decreto del Presidente della Repubblica, su proposta del Ministro competente, di concerto con i Ministri delle attività produttive e dell'economia e delle finanze, sentito il Consiglio dei ministri, se il provvedimento interessa la difesa militare del Paese o, negli altri casi, la Commissione dei ricorsi.
2. Il decreto di espropriazione nell'interesse della difesa militare del Paese, quando viene emanato prima della stampa dell'attestato di brevettazione o di registrazione, può contenere l'obbligo e stabilire la durata del segreto sull'oggetto del titolo di proprietà industriale.
3. La violazione del segreto e' punita ai sensi dell'articolo 262 del codice penale.

4. Nel decreto di espropriazione e' fissata l'indennità spettante al titolare del diritto di proprietà industriale, determinata sulla base del valore di mercato dell'invenzione, sentita la Commissione dei ricorsi.

5. Contro i decreti di espropriazione per causa di pubblica utilità e' ammesso il ricorso al Tribunale amministrativo regionale competente per territorio il quale provvede con giurisdizione esclusiva e con applicazione del rito speciale di cui all'articolo 23-bis, legge 6 dicembre 1971, n. 1034.

Art. 143.

Indennità di espropriazione

1. Ove il titolare del diritto espropriato non accetti l'indennità fissata ai sensi dell'articolo 142 ed in mancanza di accordo fra il titolare e l'amministrazione procedente, l'indennità e' determinata da un collegio di arbitratori.

2. All'inventore o all'autore, il quale provi di avere perduto il diritto di priorità all'estero per il ritardo della decisione negativa del Ministero in merito all'espropriazione, e' concesso un equo indennizzo, osservate le norme relative all'indennità di espropriazione.

3. I decreti di espropriazione devono essere annotati nel Registro dei titoli di proprietà industriale a cura dell'Ufficio italiano brevetti e marchi.

JAMAICA:

No provision of law on security measures related to patents in the Patents Act (version of 1975)

JAPAN:

No provision of law on security measures related to patents in the Patent Act (Act No. 121 of April 13, 1959, as amended up to Act No. 63 of 2011)

JORDAN:

No provision of law on security measures related to patents in the Law No. 32 of 1999 on Patents

KAZAKSTHAN: Article 37 of the Law on Patents of the Republic of Kazakhstan No. 427-I of July 16, 1999 (as amended up to Law of the Republic of Kazakhstan No. 34-V of July 10, 2012)

Статья 37. Патентование объекта промышленной собственности в зарубежных странах
1. Подача в зарубежные страны заявки на объект промышленной собственности, созданный в Республике Казахстан, может быть осуществлена по истечении трех месяцев с даты подачи заявки в экспертную организацию или ранее после окончания проводимой в установленном законодательством порядке проверки наличия сведений, составляющих государственную тайну.

2. Граждане Республики Казахстан, проживающие на ее территории, а также юридические лица Республики Казахстан подают заявку на объект промышленной

собственности в международную патентную организацию через экспертную организацию, если это не противоречит соответствующему международному договору. 3. В случае подачи в зарубежные страны или международную патентную организацию заявки на объект промышленной собственности, созданный в Республике Казахстан, с нарушением порядка настоящей статьи охраненный документ на данный объект промышленной собственности в Республике Казахстан не выдается.

KENYA: Articles 27 and 28 of the Industrial Property Act of 27/07/2001

Information prejudicial to defence of Kenya or safety of public

27. (1) Where an application for a patent is filed with the Institute under this Act or under any international convention to which Kenya is a party, and it appears to the Managing Director that the application contains information or a description notified to him by the Minister responsible for defence or the concerned Minister as being information the publication of which might be prejudicial to the defence of Kenya, the Managing Director may give directions prohibiting or restricting the publication of that information or its communication to any specified person or persons.

(2) If it appears to the Managing Director that any application so filed contains information the publication of which might be prejudicial to the safety of the public, he may give directions prohibiting or restricting the publication of that information or its communication to any specified person or persons until the end of a period not exceeding three months from the end of the period prescribed for the purposes of section 42.

(3) Where directions under this section are in force with respect to any application:

(a) if the application is made under this Act, it may be processed to the stage where it is in order for the grant of a patent, but shall not be published and any information relating thereto shall not be communicated and no patent shall be granted in pursuance of the application;

(b) if it is an application for an ARIPO patent, it shall not be sent to the ARIPO Office; and

(c) if it is an international application for a patent, a copy thereof shall not be sent to the International Bureau or to any international searching authority appointed under the Patent Co-operation Treaty.

(4) Where the Managing Director gives instructions under this section with respect to any application, he shall give notice of the application and of the directions to the Minister responsible for defence or the concerned Minister and the following provisions shall then have effect:

(a) the Minister responsible for defence or the concerned Minister shall, on receipt of the notice, consider whether the publication of the application or the publication or communication of the information in question would be prejudicial to the defence of Kenya or the safety of the public;

(b) if the Minister responsible for defence or the concerned Minister determines that the publication of the application or the publication or communication of the information would be prejudicial to the safety of the public, he shall notify the Managing Director, who shall continue his directions under subsection (2) until they are revoked under paragraph (e);

(c) if the Minister responsible for defence or the concerned Minister determines that the publication of the application, or the publication or communication of the information would

be prejudicial to the defence of Kenya or the safety of the public, he shall, unless a notice under paragraph (d) has previously been given by the Minister responsible for defence or the concerned Minister to the Managing Director reconsider that question during the period of nine months from the date of filing the application and at least once in every subsequent period of twelve months;

(d) if on the consideration of an application at any time it appears to the Minister responsible for defence or the concerned Minister that the publication of the application, or the publication or communication of the information, contained in it would not, or would no longer, be prejudicial to the defence of Kenya or the safety of the public, he shall give notice to the Managing Director to that effect; and

(e) on receipt of a notice under paragraph (d), the Managing Director shall revoke the directions and may, subject to such conditions as he may deem fit, extend the time for doing anything required or authorised to be done by or under this Act in connection with the application, whether or not that time had previously expired.

(5) The Minister responsible for defence or the concerned Minister may, in determining a question under paragraph (c) of subsection (4):

(a) at any time after, or, with the consent of the applicant, before the expiry of the period prescribed for the purposes of section 42, consider the application and any documents submitted in relation thereto; or

(b) where the application contains information relating to the production or use of atomic energy or research into matters connected with such production or use, authorise the National Council for Science and Technology to study the application and any documents sent to the Managing Director in connection therewith and report to him as soon as it is reasonably practicable on the utility or otherwise of the patent applied for.

(6) Where directions have been given under this section in respect of an application for a patent for an invention and the period prescribed in relation thereto expires, and while such directions are still in force, an application is brought for the grant of a patent, then:

(a) if while the directions are in force, the invention is used by or with the written authorization of or on the order of a Government Ministry, Department or agency, the provisions of section 80 shall apply as if:

(i) the use was made pursuant to the provisions of that section;

(ii) the application had been published at the end of that period; and

(iii) a patent had been granted for the invention at the time the application is brought for the grant of a patent, taking the terms of the patent to be those of the application as at the time it was so brought; and

(b) if it appears to the Minister responsible for defence or the concerned Minister that the applicant for the patent has suffered hardship by reason of the continuation in force of the directions, he may, with the consent of the Ministry responsible for finance, make such payment by way of compensation to the applicant, as appears to be reasonable having regard to the inventive merit and utility of the invention, the purpose for which it is designed and any other relevant circumstances.

(7) If the applicant is dissatisfied with the amount of compensation paid to him under subsection (6), he may appeal to the Tribunal.

(8) Where a patent is granted in pursuance of an application in respect of which directions have been given under this section, no maintenance fees shall be payable in respect of any period during which those directions remain in force.

(9) A person who fails to comply with any direction under this section shall be liable, on conviction, to imprisonment for a term not exceeding two years, or to a fine not exceeding twenty thousand shillings, or to both.

Restrictions on applications abroad by Kenya residents

28. (1) Subject to the provisions of this section, no person resident in Kenya shall, without written authority granted by the Managing Director, file or cause to be filed outside Kenya, an application for a patent for invention, unless:

(a) an application for a patent for the same invention has been filed with the Institute not less than six weeks before the filing of the application outside Kenya; and

(b) either no directions have been given under section 27 in relation to the application in Kenya or any such directions have been revoked.

(2) Subsection (1) shall not apply to an application for a patent for an invention in respect of which an application for a patent has first been filed in a country outside Kenya by a person resident outside Kenya.

(3) A person who files or causes to be filed an application for the grant of a patent in contravention of this section shall be liable on conviction, to a fine not exceeding twenty thousand shillings, or to an imprisonment for a term not exceeding two years, or to both.

(4) In this section:

(a) any reference to an application for a patent includes a reference to an application for other protection for an invention;

(b) any reference to either kind of application is a reference to an application under this Act, under the law of any country other than Kenya or under any international treaty or convention to which Kenya is a party.

KYRGYZSTAN: Article 8 of the Law of the Kyrgyz Republic on Secret Inventions (as amended by Law No. 38 of March 22, 2007)

Статья 8. Регистрация и экспертиза заявки на секретное изобретение

По результатам экспертизы заявки по существу выносится решение о признании или непризнании заявленного объекта секретным изобретением.

На основании решения уполномоченного государственного органа Кыргызской Республики в области интеллектуальной собственности о признании заявленного объекта секретным изобретением уполномоченный государственный орган Кыргызской Республики в области интеллектуальной собственности вносит секретное изобретение в Государственный реестр секретных изобретений Кыргызской Республики и выдает свидетельство автору (авторам), а заявителю патент с грифом "Секретно".

Доступ к сведениям о зарегистрированных секретных изобретениях и ознакомление с ними производятся с соблюдением требований сохранения государственных секретов, предусмотренных Законом Кыргызской Республики "О защите государственных секретов Кыргызской Республики".

LAO PEOPLE'S DEMOCRATIC REPUBLIC

No provision of law on security measures related to patents in the Law No. 01/NA of 20/12/2011, on Intellectual Property

LATVIA: *Section 11 of the Patent Law of 15/02/2007*

Section 11. Secret Inventions

- (1) If an invention affects the interests of State defence, it shall be secret and it shall be registered by the Ministry of Defence, according to the procedures specified by the Cabinet.
- (2) The condition for the utilisation of a secret invention, as well as compensation for the utilisation thereof shall be determined by the agreement between the inventor and the Ministry of Defence. If the parties fail to agree regarding the compensation, it shall be determined by a court, according to the procedures specified by the Civil Procedure Law.
- (3) The patent application in relation to the invention, which is referred to in Paragraph one of this Section, may be submitted to the Patent Office, after the receipt of the relevant permission from the Ministry of Defence.

LEBANON: *Articles 38 and 39 of the Law No. 240/2000 of 2000 on Patents*

Article 38

The State may, for National Security reasons own in part or in whole any invention patent by issuing a decree that also states a fair compensation for such proprietary and to be served to the patent owner, the Intellectual Property Protection Authority and to patent rights owners whose titles are registered in the patents register at the Authority hereinbefore mentioned.

Article 39

3. The administrative decisions hereby mentioned may be appealed before Beirut Civil Court of Appeal within thirty days of the decisions being served.
4. The stipulations mentioned do not prevent resorting to arbitration in matters where conciliation is possible.

LIBERIA:

No provision of law on security measures related to patents in the Industrial Property Act of 20/03/2003

LIBYA: *Article 23 of the Law No. 8 of 1959 on Patents and Industrial Designs and Models*

Article No.23:

If the Office of Industrial & Commercial Property Protection noticed that the invention is related to defense affairs or it has an actual military value, it shall brief the Ministry of Defense immediately on the patent application and on the attached documents.

The Minister of Defense has the right to challenge granting the patent to the applicant within three months as of patent application date, in return for purchasing the invention from him or making a deal with him to exploit it.

LITHUANIA: Article 21 and 24 §3 of the Law on Patents of 18/01/1994, No. I-372, as last amended on 10/05/2007 by Law No. X-1119

Article 21. Publication of Patent Application

The State Patent Bureau shall publish the patent application as filed by the applicant within 18 months from its filing date, or if priority is claimed, from its priority date. In the event that the applicant files a written request with the State Patent Bureau to have his patent application published earlier, the State Patent Bureau proceeds accordingly, but no earlier than six months after the filing date of the application.

A patent application shall not be published if, within 17 months from its filing or priority date, it has been withdrawn, deemed to be withdrawn or an invention has been made secret in the manner prescribed by legal acts.

Temporary legal protection shall be provided to a published patent application from the date of its publication until the date of patent grant.

If the published patent application is later withdrawn or disputed by another person, it shall be considered that the application has not been provided with the temporary legal protection provided for in paragraph 3 of this Article.

After an invention has been made secret in the manner and on the grounds laid down by legal acts, the inventor shall be paid compensation according to the agreement made between the entity of state secrets and the inventor.

After an invention has been declassified in the manner and on the grounds laid down by legal acts, the data of such invention shall be published in the Official Bulletin of the State Patent Bureau.

Article 24. Inspection of Patent Applications Files

Access to an invention which has been made secret shall be provided in the manner prescribed by legal acts.

LUXEMBOURG: Article 38 of the Patents Law of July 20, 1992, as amended by the Law of 24/05/1998 and Law of 8/07/1967

Search with regard to an invention concerning defense

Art 38.-1. If the lifting of secrecy, with respect to a patent application placed under secrecy in accordance with the law of July 8, 1967, occurs more than six years after the filing date, the obligations referred to in Article 35 shall be satisfied within a period of 12 months as from the date of the lifting of secrecy.

2. The right of intervention by other parties as set out in Article 36 shall be exercised within the period of time laid down in paragraph 1. Articles 34 and 37 shall apply.

Law of 8/07/1967

Chapitre 1er. - Dispositions générales

Art. 1er. Est interdite la divulgation des inventions et des secrets de fabrique, lorsqu'elle est contraire aux intérêts de la défense du territoire ou de la sûreté de l'Etat luxembourgeois ou

d'un Etat avec lequel le Grand-Duché de Luxembourg est uni par un accord régional en vue d'une défense commune.

L'auteur de la divulgation et celui qui l'a causée par sa négligence sont passibles des peines prévues à l'article 13, s'il est établi qu'ils n'ont pu ignorer qu'elle était contraire aux intérêts dont il est question à l'alinéa qui précède.

Art. 2. Sans préjudice de l'application de l'article 1er, les ministres chargés de l'économie nationale et de l'énergie, de la propriété industrielle et de la force armée peuvent déclarer conjointement que la divulgation d'une invention ou d'un secret de fabrique est contraire aux intérêts dont il est question à l'article 1er, alinéa 1er et qu'elle est interdite pendant la période qu'ils détermineront.

Art. 3. Lorsqu'ils l'estiment nécessaire en vue d'assurer la défense du territoire ou la sûreté de l'Etat ou d'un Etat avec lequel le Grand-Duché de Luxembourg est uni par un accord régional en vue d'une défense commune, les ministres désignés à l'article précédent, agissant conjointement, peuvent déterminer et contrôler temporairement les conditions d'exploitation d'inventions et de mise en oeuvre de secrets de fabrique.

S'il est établi que ces mesures ne répondent pas aux exigences de la défense du territoire ou de la sûreté de l'Etat, ils peuvent, par décision motivée, soit interdire temporairement l'exploitation d'inventions ou la mise en oeuvre de secrets de fabrique, soit contraindre l'intéressé à céder des licences à des tiers autorisés par l'Etat, soit contraindre l'intéressé à lui céder la connaissance complète d'une invention non brevetée ou d'un secret de fabrique. Les ministres peuvent également procurer à l'Etat la licence d'un brevet et la connaissance complète d'une invention non brevetée ou d'un secret de fabrique au moyen de contrats librement conclus.

MADAGASCAR: Article 9 of the Ordinance No. 89-019 Establishing Arrangements for the Protection of Industrial Property of 31/07/1989

9. The President of the Republic may decree the exclusion from patentability, either provisionally or definitively, of certain categories of invention where required by the vital interests of education or teaching, public health, the economy or national defense.

MALAWI: Section 24 of the Patents Act, Chapter 49:02 of 1957 (version as of 1986)

Provisions for secrecy of certain inventions

24. (1) In this section the expression "competent authority" means the Minister.

(2) Where, before or after the date of commencement of this Act, an application for a patent has been made in respect of an invention, and it appears to the Registrar that the invention is one of a class notified to him by a competent authority as relevant for defence purposes, he may give directions for prohibiting or restricting the publication of information with respect to the invention, or the communication of such information to any person or class of persons specified in the directions, and while such directions are in force the application may, subject to the directions, proceed up to the acceptance of the complete specification, but the acceptance shall not be advertised nor the specification published, and no patent shall be granted in pursuance of the application.

(3) Where the Registrar gives any such directions as aforesaid, he shall give notice of the application and of the directions to the competent authority, and thereupon the following provisions shall have effect, that is to say:-

(a) The competent authority shall, upon receipt of such notice, consider whether the publication of the invention would be prejudicial to the defence of Malawi and unless a notice under paragraph (c) of this subsection has previously been given by that authority to the Registrar, shall consider that question before the expiration of nine months from the date of lodging of the application for the patent and at least once in every subsequent year.

(b) For the purpose aforesaid, the competent authority may, at any time after the complete specification has been accepted or, with the consent of the applicant, at any time before the complete specification has been accepted, inspect the application and any documents furnished to the Registrar in connection therewith.

(c) If upon consideration of the invention at any time it appears to the competent authority that the publication of the invention would not, or would no longer, be prejudicial to the defence of Malawi, that authority shall give notice to the Registrar to that effect;

(d) On the receipt of any such notice the Registrar shall revoke the directions and may, subject to such conditions, if any, as he thinks fit, extend the time for doing anything required or authorized to be done by or under this Act in connection with the application, whether or not that time has previously expired.

(4) When directions have been given under this section, if any use of the invention is made during the continuance in force of such directions by or on behalf of or to the order of a Government department, section 40 shall apply in relation to that use as if a patent had been granted for the invention.

(5) If an applicant for a patent has suffered loss of damage by reason of his invention having been kept secret in pursuance of a direction under subsection (2), the Minister, with the consent of the Minister of Finance, shall pay to him such reasonable compensation as is agreed upon, or, in default of agreement, as may be determined by the Patents Tribunal on a reference under section 42(1).

(6) Where a patent is granted in pursuance of an application in respect of which directions have been given under this section, no renewal fees shall be payable in respect of any period during which those directions were in force.

(7) If any person fails to comply with any direction given under this section he shall be guilty of an offence.

MALAYSIA: Article 30A of the Patents Act of 1983 as last amended in 2006

Prohibition of Publication of Information which Might be Prejudicial to the Nation

30A.—(1) Subject to any direction of the Minister, where an application for a patent is filed or is deemed to have been filed at the Patent Registration Office and it appears to the Registrar that the application contains information the publication of which might be prejudicial to the interest or security of the nation, he may issue directions prohibiting or restricting the publication of that information or its communication whether generally or to a particular person or class of persons.

(2) Subject to any direction by the Minister, the Registrar may revoke any direction issued by him under subsection (1) prohibiting or restricting the publication or communication of any information contained in an application for a patent if he is satisfied that such publication or communication is no longer prejudicial to the interest or security of the nation.

(3) Where directions issued by the Registrar under subsection (1) are in force in respect of an application, the application may proceed to the stage where it is in order for the grant of a patent but no patent shall be granted in pursuance of such application.

(4) Nothing in this section prevents the disclosure of information concerning an invention to a Ministry or a Government department or authority for the purpose of obtaining advice as to whether directions under this section should be made, amended or revoked.

MALTA:

No provision of law on security measures related to patents in the Patents and Designs Act (Chapter 417), ACT XVII of 2000 as LAST amended by Act No. 426 of 2007

MAURITIUS:

No provision of law on security measures related to patents in the Patents, Industrial Designs and Trademarks Act 2002

MEXICO:

No provision of law on security measures related to patents in the Industrial Property Law of 27/06/1991 as last amended on 09/04/2012

MONGOLIA: *Article 22 of the Patents Act of 25/06/1993 as last amended on 19/01/2006*

Article 22. Inventions, Industrial Designs and Utility Models Related to State Secrecy

22.1. Applications for inventions, industrial designs or utility models related to national security or defense, classified as extremely important, top secret or secret, shall, upon the registration with the Central Intelligence Office, be received by a chief examiner of the Intellectual Property Office and transmitted to a responsible examiner for the examination upon which a decision whether to grant a patent shall be rendered.

22.2. Inventions, industrial designs or utility models related to the state secrecy shall not be published.

MONTENEGRO: *Articles 87 to 91 of the Law on Patents of 31/10/2008*

Secret Patent Application Article 87

(1) An application filed by a national of Montenegro shall be considered to be secret if it concerns an invention of significance for the defence and security of Montenegro.

(2) Applications referred to in paragraph 1 of this Article shall be filed with the authority responsible in national defence.

Procedure in Respect of the Application Article 88

If the state administrative authority responsible for defence establishes in its examination of an application filed that it has ceased to have elements of secrecy, it shall forward the application to the responsible authority. Such application shall retain the filing date accorded to it by the state administrative authority responsible for national defence.

Procedure Following the Grant of a Patent Article 89

If the state administrative authority responsible for defence establishes, subsequent to the grant of a patent for a secret invention, that the invention has ceased to be secret, it shall

forward the file concerning the invention to the responsible authority, which shall enter the patent in the appropriate Register, publish the information on the granted right and issue an appropriate certificate to the right holder, in accordance with the provisions of this Law.

Right to Exploitation Article 90

(1) The state administrative authority responsible for defence or state administrative authority responsible for internal affairs shall have the exclusive right to use and dispose of a secret invention.

(2) The inventor shall be entitled to a single lump sum compensation for the protected secret invention, regardless of whether or not the invention is used.

Publication of a Secret Invention and Its Protection Abroad Article 91

(1) A secret invention shall not be published.

(2) A national of Montenegro may claim protection for a secret invention abroad only subject to approval of the state administrative authority responsible for national defence.

MOROCCO: *Article 42 of the Law No. 97-17 on the Protection of Industrial Property of 15/02/2000 as last amended by Law No. 31-05*

42. For the purposes of National Defense, the grant and working of an invention patent may be prohibited, definitively or temporarily, where publication of the invention is liable to harm the nation's security.

To this end, any patent application, once the patent application has been corrected, within the time period of 15 days provided for in the first paragraph of Article 43 below, may be consulted on a confidential basis on the premises of the entity responsible for industrial property.

Before the expiry of the time period of 15 days referred to in the previous paragraph, a decision, either to postpone the grant and disclosure of the patent until the expiry of the time period of 18 months stipulated in the first paragraph of Article 44 below, or to prohibit definitively the grant, disclosure and working of said patent, shall be notified to the competent administrative authority and to the entity responsible for industrial property.

If, once the time period of 15 days referred to in the second subparagraph of this Article has expired, no decision has been notified to the competent administrative authority and the entity responsible for industrial property, the report referred to in Article 43 below shall be conveyed or notified to the applicant or his agent.

In the event of a postponement, and where no decision to maintain or lift the postponement on the grant of the patent has been notified to the competent administrative authority and to the entity responsible for industrial property during the time period of 18 months referred to in the first subparagraph of Article 44 below, the foregoing report shall be conveyed or notified and the patent shall be granted to the applicant or his agent on the conditions laid down in Articles 46 to 48 below.

Where there is a definitive prohibition on the grant, disclosure and working of the patent, the foregoing report shall not be drawn up and the patent shall not be granted.

The entity responsible for industrial property must notify the applicant or his agent in writing of any decision taken in accordance with this Article.

A definitive or temporary prohibition on disclosing and working an invention shall give rise to an entitlement to compensation fixed in agreement with the owner(s) of a patent application or his (their) agent.

All disputes relating to compensation shall be referred to the Administrative Tribunal of Rabat.

MOZAMBIQUE:

No provision of law on security measures related to patents in the Industrial Property Code, approved by Decree No. 04/2006 of 12/04/2006

NEPAL:

No provision of law on security measures related to patents in the Patent, Design and Trade Mark Act, 2022 of 1965 as last amended by Act No. 2063 of 2006

NETHERLANDS: *Articles 40 to 46 of the Patents Act of 15/12/1994 (Text as it applies on: 03/06/2009)*

§ 3. Maintenance of confidentiality of the content of patent applications

Article 40

1. If the Office is of the opinion that the confidentiality of the content of a patent application may be in the interest of the defence of the Kingdom or its allies, it shall notify the applicant in that respect as quickly as possible, but in any event within three months after the date on which the application was filed. Our Minister of Defence may give instructions to the Office regarding whether such an interest may be involved.
2. At the same time as the notification referred to in paragraph (1) is sent, the Office shall send a copy of the decision and the description and drawings pertaining to the application to Our aforementioned Minister.
3. In the event that paragraph (1) applies, the entry of the application in the patent register shall be suspended.

Article 41

1. Within eight months of the filing of a patent application as referred to in Article 40, Our Minister of Defence shall decide whether the content of the application must be kept confidential in the interest of the defence of the Kingdom or its allies. He shall notify the Office of his decision.
2. A decision that the content of the application must be kept confidential shall have the effect of suspending the entry of the application in the patent register for a period of three years from the date of notification of the decision.
3. The suspension shall end if:
 - a. Our aforementioned Minister decides that the application need not be kept confidential; or
 - b. no decision has been made within the term referred to in paragraph (1).
4. Our aforementioned Minister may extend the term of suspension within six months preceding its expiry for periods of three years at a time. He shall notify the Office of his decision.
5. Our aforementioned Minister may decide that the content of the application need no longer be kept secret. Such a decision shall terminate the suspension.

6. The Office shall inform the applicant without delay of any decision in accordance with paragraph (1), (3), (4) or (5). The Office shall also inform the applicant without delay if no decision has been rendered as referred to in paragraph (3) or (5).

7. For as long as the suspension has not been terminated the Office shall send the aforementioned Minister, at his request, copies of all the relevant documents exchanged between the Office and the applicant.

8. If the suspension is terminated, the application nonetheless shall not be entered in the patent register until a period of three months has elapsed, unless the applicant requests otherwise.

Article 42

1. Any party whose patent application has become subject to Articles 40, 41 or 46 shall, at his request, be awarded compensation by the State for any damage that he has sustained as a result of the enforcement of those Articles.

2. The amount of the compensation shall be determined after the termination of the suspension. If, however, the term of suspension has been extended by virtue of Article 41(3), at the applicant's request the amount of the compensation shall be determined in instalments, the first relating to the period prior to the commencement of the first extension, the next to the period between two successive extensions and the last to the period from the commencement of the last extension to the termination of the suspension; the amounts shall be determined upon the expiration of the relevant periods.

3. The amount of the compensation shall be determined, if possible, by Our Minister of Defence and the applicant in consultation. If no agreement has been reached within six months from the date of the expiry of the period to which the compensation relates, the first sentence of Article 58(6) shall apply *mutatis mutandis*.

Article 43

1. If an applicant requests that the content of a patent application be kept secret in the interest of the defence of another State, or if the government of that State makes such a request, provided the applicant has stated in writing that he renounces any compensation for damage he might sustain by reason of the enforcement of this Article, the Office shall immediately send a copy of that request and of the specification and drawings pertaining to the application as well as the aforementioned waiver to Our Minister of Defence. In such a case, the entry of the application in the patent register shall be suspended. In the absence of a waiver, the Office shall notify Our aforementioned Minister in that respect without delay.

2. Within three months following the date of filing of the request, Our aforementioned Minister may decide that the content of the application must be kept secret in the interest of the defence of the State concerned, provided that he has ascertained that a duty of confidentiality has also been imposed on the applicant by that State and that the applicant has been given permission by that State to file an application subject to a duty of confidentiality.

The applicant and the Office shall be notified of the decision.

3. A decision within the meaning of paragraph (2) shall result in the entry of the application in the patent register being suspended until Our aforementioned Minister decides that the content of the application need no longer be kept secret. The suspension shall end if a decision has not been rendered within the term referred to in paragraph (2).

4. Article 41(7) and (8) shall apply mutatis mutandis with regard to an application as referred to in paragraph (1).

Article 44

1. In the event that Our Minister of Defence is of the opinion that it is in the interest of the defence of the Kingdom for the State to use, put into practice or cause to be used or to be put into practice the subject matter of a patent application to which Article 40, 41 or 43 has been applied, he may take measures to that effect after giving notice of the decision in question.

That decision shall contain a precise description of the acts that the State must be able to perform or cause to be performed.

2. The State shall pay the applicant compensation for the use or the putting into practice of the subject matter of the application pursuant to paragraph (1).

3. The amount of that compensation shall be determined, if possible, by Our aforementioned Minister and the applicant in consultation. If no agreement has been reached within six months following the date of the notification referred to in paragraph (1), the first sentence of Article 58(6) shall apply mutatis mutandis.

Article 45

If the State itself is the holder of a patent application and if Our Minister of Defence notifies the Office that its content must be kept secret in the interest of the defence of the Kingdom or its allies, the entry of the application in the patent register shall be suspended until Our aforementioned Minister notifies the Office that the content of the application need no longer be kept secret.

Article 46

1. A European patent application whose applicant knows or reasonably should know that the content thereof should be kept confidential in the interest of the defence of the Kingdom or its allies shall be filed with the Office.

2. The Office shall immediately send a copy of the description and drawings pertaining to the application to Our Minister of Defence.

3. Not later than three weeks before a European patent application must be sent to the European Patent Office, Our aforementioned Minister shall notify the Office whether the content of the application must be kept confidential in the interest of the defence of the Kingdom or its allies.

4. If notification in accordance with paragraph (3) has been effected in the negative or if no notification has been given, the Office shall forward the European patent application to the European Patent Office referred to in the European Patent Convention with due observance of the term stipulated in that Convention.

5. The Office shall inform the applicant without delay of any notification by virtue of paragraph (3) or of the absence thereof.

NEW ZEALAND: *Sections 132 to 139 of the Patents Act No. 68 of 2013*

Provisions for secrecy of certain inventions

132 Directions in relation to inventions concerning defence

(1) The Commissioner may give any of the directions described in subsection (2) if—

- (a) a patent application has been made for an invention either before or after the commencement of this section; and
- (b) the invention is, in the opinion of the Commissioner,—
 - (i) one of a class notified to the Commissioner by the Minister of Defence as relevant for defence purposes; or
 - (ii) likely to be valuable for defence purposes.

(2) The directions are directions—

- (a) for prohibiting or restricting the publication of information concerning the invention; or
- (b) for prohibiting or restricting the communication of information concerning the invention to a person or class of persons specified in the directions.

(3) While the directions are in force,—

- (a) the patent application may, subject to the directions, proceed up to the acceptance of the complete specification; and
- (b) the patent application and the complete specification must not become open to public inspection; and
- (c) a patent must not be granted in relation to the patent application.

133 Commissioner must give notice to Minister of Defence

If the Commissioner gives directions under section 132, the Commissioner must give notice of the patent application and of the directions to the Minister of Defence.

134 Minister of Defence must consider whether publication would be prejudicial to defence of New Zealand

(1) The Minister of Defence must,—

- (a) on receipt of a notice under section 133, consider whether the publication of the invention would be prejudicial to the defence of New Zealand; and
- (b) unless a notice under subsection (3) has been given to the Commissioner, reconsider that question before the expiry of 9 months from the filing date of the patent application and at least once in every subsequent year.

(2) For the purposes of subsection (1), the Minister of Defence may, at any time after the complete specification has been accepted or, with the consent of the applicant, at any time before the complete specification has been accepted, inspect the patent application and any documents provided to the Commissioner in connection with that application.

(3) If, on consideration of the invention at any time, it appears to the Minister of Defence that the publication of the invention would not, or would no longer, be prejudicial to the defence of New Zealand, the Minister of Defence must give notice to the Commissioner to that effect.

135 Commissioner must revoke directions on receipt of notice from Minister of Defence

On receipt of a notice under section 134, the Commissioner—

- (a) must revoke the directions given under section 132; and
- (b) may, subject to any conditions that the Commissioner thinks fit, extend the time for doing anything required or authorised to be done by or under this Act in connection with the patent application, whether or not that time has previously expired.

136 Acceptance of complete specification while directions in force

(1) This section applies if a complete specification filed for a patent application for an invention for which directions have been given under section 132 is accepted while the directions are in force.

(2) If any use of the invention is made while the directions are in force by, on behalf of, or to the order of a government department, subpart 6 of Part 4 applies to that use as if the patent had been granted for the invention.

(3) If it appears to the Minister of Defence that the applicant for the patent has suffered hardship by reason of the directions being in force, the Minister of Finance may pay to the applicant an amount by way of compensation that the Minister of Finance considers is reasonable.

(4) For the purposes of subsection (3), the Minister of Finance must have regard to—

- (a) the novelty and usefulness of the invention; and
- (b) the purpose for which the invention is designed; and
- (c) any other relevant matters.

137 Maintenance fees and renewal fees not payable while directions in force

(1) No maintenance fees are payable for any period during which directions that are given under section 132 are in force.

(2) No renewal fees are payable for any period during which directions that are given under section 132 are in force if a patent is granted for an application for which directions have been given.

138 Offence to fail to comply with directions

(1) Every person who fails to comply with a direction given under section 132 commits an offence if, at the time of the failure, the person knew or ought to have known that a direction had been given.

(2) Every person who commits an offence against subsection (1) is liable on conviction to imprisonment for a term not exceeding 2 years, to a fine not exceeding \$20,000, or to both.

139 Liability of directors and managers if body corporate commits offence

If a body corporate is convicted of an offence against section 138, every director and every person concerned in the management of the body corporate is guilty of the offence if it is proved—

- (a) that the act that constituted the offence took place with his or her authority, permission, or consent; and
- (b) that he or she—
 - (i) knew, or could reasonably be expected to have known, that the offence was to be or was being committed; and
 - (ii) failed to take all reasonable steps to prevent or stop it.

NICARAGUA:

No provision of law on security measures related to patents in the Law No. 354 on Patents, Utility Models and Industrial Designs of 19/09/2000

NIGERIA:

No provision of law on security measures related to patents in the Patents and Designs Act of 1971 (Chapter 344)

NORWAY: *Sections 70 and 71 of the Patents Act No. 9 of 15/12/1967, as amended up to Act No. 8 of 01/07/2010 and Act on Inventions of Importance to the Defence of the Realm (Act No. 8 of 26/06/1953, as last amended on 01/01/2002) (available only in Norwegian)*

Section 70. The King may, when found necessary because of war or danger of war and situations of crisis connected therewith, provide that the right to an invention shall be assigned to the Government or to another party designated by the King. Compensation shall be paid for the assigned right which shall be stipulated by official assessment, if no amicable settlement is reached.

If the right to an invention has been assigned to a party other than the Government in accordance with the first paragraph, and if the party concerned has not met his liabilities, the Government shall, at the request of the party entitled to compensation, be obliged to pay the compensation promptly.

Section 71. Inventions of importance to the defence of the realm shall be governed by a separate Act.

OMAN:

No provision of law on security measures related to patents in the Industrial Property Rights and their Enforcement for the Sultanate of Oman, Royal Decree No. 67/2008

PAKISTAN: *Sections 25 and 26 of the Patents Ordinance No. LXI of 2000*

25. Information prejudicial to defence of Pakistan or safety of public.-

(1) Where an application for a patent in respect of an invention is filed in the Patent Office and it appears to the Controller that the invention is one of the class notified to him by the Federal Government as being one the publication of which might be prejudicial to the defence of Pakistan, or if he himself thinks so, then he may give directions prohibiting or restricting the publication of the invention or its communication to any specified person or class of persons.

(2) If it appears to the Controller that the specification of any application so filed contains information the publication of which might be prejudicial to the safety of the public, he may give directions prohibiting or restricting the publication of that information or its communication to any person until the end of a period not exceeding three months from the date of the acceptance.

(3) While directions are in force under this section, the application may proceed to the stage where it is in order for acceptance, but specification shall not be published.

(4) Where the Controller gives directions under this section with respect to any application, he shall give notice of the application and of the directions to the Federal Government and the following provisions shall then have effect, namely:

(a) the Federal Government shall, on receipt of the notice, consider whether the publication of the invention or the publication or communication of the information in question would be prejudicial to the defence of Pakistan or the safety of the public;

(b) if the Federal Government determine under clause (a) that the publication of the specification or the publication or communication of that information would be prejudicial to the safety of the public, it shall give notice to the Controller who shall continue his direction under sub-section (2) until they are revoked under clause (e);

(c) if the Federal Government determine under clause (a) that the publication of the specification or the publication or communication of that information would be prejudicial to the defence of Pakistan or the safety of the public, it shall, unless a notice under clause (d) has previously been given to the Controller, reconsider that question during the period of nine months from the date of filing the application and at least once in every subsequent period of twelve months;

(d) If on consideration of an application at any time it appears to the Federal Government that the publication of the specification or the publication or communication of the information contained in it would not, or would no longer, be prejudicial to the defence of Pakistan or the safety of the public, it shall give notice to the Controller to that effect; and

(e) On receipt of a notice under clause (d), the Controller shall revoke the direction and may, subject to such conditions, if any, as he thinks fit, extend the time for doing any thing required or authorized to be done by or under this Ordinance in connection with the application, whether or not that time has previously expired.

(5) Where a complete specification filed in pursuance of an application for a patent for an invention in respect of which directions have been given under this section is accepted before the directions are revoked, then-

(a) if any use of the invention is made by or on behalf or to the order of the Federal Government, the provisions of section 58 shall apply in relation to that use as if the patent had been granted for the invention; and

(b) if it appears to the Federal Government that the applicant for the patent has suffered hardship by reason of the continuance in force of the directions, the Federal Government may make such payment, if any, by way of compensation to the applicant as appears to the Federal Government to be reasonable having regard to the inventive merit and utility of the invention, the purpose for which it is designed and any other relevant circumstances.

(6) Where a patent is granted in pursuance of an application in respect of which directions have been given under this section, no renewal fees shall be payable in respect of any period during which those directions were in force.

26. Residents not to apply outside Pakistan without permission.-

(1) No person resident in Pakistan shall, without written authority granted by the Controller, file or cause to be filed outside Pakistan an application for the grant of a patent for an invention unless-

(a) an application for patent for the same invention has been filed in the Patent Office not less than six weeks before the application outside Pakistan; and

(b) either no directions have been given under section 25 in relation to the application in Pakistan or all such directions have been revoked.

(2) The provisions of sub-section (1) shall not apply in Pakistan to an invention in respect of which an application for a patent has first been filed in a country outside Pakistan by a person resident outside Pakistan.

PANAMA:

No provision of law on security measures related to patents in the Law No. 35 of 10/05/1996 on Industrial Property as last amended by Law N° 61 of 05/10/2012

PAPUA NEW GUINEA:

No provision of law on security measures related to patents in the Patents and Industrial Designs Act of 01/07/2000

PARAGUAY:

No provision of law on security measures related to patents in the Law No. 1.630/2000 on Patents (as last amended by Law No. 2.593/2005

PHILIPPINES:

No provision of law on security measures related to patents in the Intellectual Property Code of the Philippines, Act No. 8293 of 06/06/1997 as last amended by Act No. 10372 of 2013

POLAND: *Articles 56 to 62 of the Industrial Property Law of 30/06/2000 as last amended by act of 29 June 2007*

Article 56

1. An invention made by a Polish national may be considered to be a secret invention, if it concerns national defence or the security of the State.
2. The following, in particular, are inventions concerning national defence: new categories of weapons or military equipment and methods of combat.
3. The following, in particular, are inventions concerning the security of the State: technical means applied by civil services authorised to carrying out actions and reconnoitring operations, as well as new categories of equipment and matériel, and methods of use thereof by the said services.

Article 57

1. A secret invention shall constitute a State secret.
2. Secrecy of an invention in the field of national defence or the security of the State shall be determined, respectively, by the Minister of National Defence, a minister competent in internal affairs or by the Chief of the State Protection Office.

Article 58

1. A secret invention may be applied for protection with the Patent Office only for the purpose of claiming priority to obtain a patent. Throughout the period where the invention applied for protection remains secret, the Patent Office shall refrain from processing that application.
2. Paragraph (1) shall apply accordingly, where a decision on the secrecy of the invention is issued after the receipt of the application by the Patent Office.

Article 59

1. The right to a patent for a secret invention applied with the Patent Office for the purpose of claiming priority shall be transferred, against compensation, to the State Treasury represented by the Minister of National Defence, a minister competent in internal affairs or by the Chief of the State Protection Office, respectively.

2. The amount of the compensation referred to in paragraph (1) shall be determined in proportion to the market value of the invention.

3. If the parties have failed to agree on the amount and the terms of payment of the compensation referred to in paragraph (1), the said compensation determined by the Minister of National Defence, a minister competent in internal affairs or by the Chief of the State Protection Office, respectively, shall be payable yearly from the funds of the State budget in total or in instalments, however for no longer than five years.

Article 60

1. The Minister of National Defence, a minister competent in internal affairs or the Chief of the State Protection Office, respectively, shall decide whether the invention has ceased to be secret. In that case, the Patent Office shall, at the request of a competent authority, initiate or resume the patent granting proceedings, provided that the 20-year period counted from the date of filing of the invention for protection has yet not expired.

2. After the period referred to in paragraph (1) has expired, applications relating to secret inventions shall be deemed not to have been filed.

Article 61

The Council of Ministers shall, by way of regulation, determine the categories of inventions which fall within the sphere of national defence or the security of the State procedures applied in respect of such inventions both before ascertainment by a competent authority whether or not said inventions are secret and after deciding on their secrecy.

Article 62

1. To the extent as agreed between the authorities concerned, the Patent Office shall communicate to the Minister of National Defence, a minister competent in internal affairs or to the Chief of the State Protection Office, lists of the inventions filed concerning national defence or the security of the State as well as, at the request of these authorities, the descriptions and drawings thereof. The provision of Article 45(3), second sentence, shall apply accordingly.

2. The files of the application relating to a secret invention may be made available to parties duly authorised by the Minister of National Defence, a minister competent in internal affairs or to the Chief of the State Protection Office.

PORTUGAL:

No provision of law on security measures related to patents in the Industrial Property Code of 05/03/2003, consolidated as of 2008

REPUBLIC OF KOREA: *Article 41 of the Patent Act No. 950 of 31/12/1961 as last amended by Act No. 11690 of 2013*

Article 41

Inventions Necessary for National Defense etc.

(1) If an invention is necessary for national defense, the Government may order an inventor, an applicant or a representative not to file a patent application for the invention in the foreign patent offices concerned or to keep the invention confidential. However, if such persons obtain permission from the Government, they may file a patent application in foreign countries.

(2) If an invention is considered necessary for national defense, the Government may refuse to grant a patent and, for reasons of national defense such as in time of war, uprising or other similar emergency, may expropriate the right to obtain a patent.

(3) The Government shall pay reasonable compensation for losses arising from its prohibition of filing a patent application in a foreign country or from the maintenance of confidence under paragraph (1).

(4) The Government shall pay reasonable compensation if a patent is not granted or the right to obtain a patent is expropriated under paragraph (2).

(5) When a person violates an order prohibiting the filing of an application for an invention in a foreign country or an order to maintain confidence under paragraph (1), the person's right to obtain a patent for that invention is deemed to be abandoned.

(6) When a person violates an order to maintain confidence under paragraph (1), the person's right to request payment of compensation for the loss arising from maintaining confidence is deemed to be abandoned.

(7) Matters related to such procedures as prohibiting the filing of a patent application in foreign countries and maintaining confidence under paragraph (1) or for expropriation or payment of compensation under paragraphs (2) to (4) are prescribed by Presidential Decree.

REPUBLIC OF MOLDOVA:

No provision of law on security measures related to patents in the Law on the Protection of Inventions No. 50-XVI of 07/03/2008

ROMANIA: *Articles 40 and 41 of the Patent Law No. 64/1991 as republished on Official Gazette of Romania, Part I, no. 541/ 8 august 2007 and Article 7 (3) to (20) of the Implementing Regulations of the Patent Law No. 64/1991 of 21/05/2008*

Art. 40 - An invention for which a patent application has been filed with OSIM shall not be disclosed without the applicant's consent, until the publication thereof, and have, until publication, the character established by the special law.

Information in the field of national defense and State security included in an invention created on the territory of Romania and being the object of a patent application may be classified as secret of State by the competent authorities; in such case, the applicant shall be informed accordingly by the authority that has classified the information and may, on a contract basis,

benefit by a compensation granted by said authority under the conditions prescribed by the Implementing Regulations to this Law.

The secrecy of information classified as secret of State may be lifted at the discretion of the authority that has classified them.

Art. 41 - Inventions made by Romanian natural persons on the territory of Romania may not be patented abroad until a patent application has been filed with OSIM.

In the case of inventions containing information classified as secret of State, the grant of foreign patents shall be possible only after such secrecy has been lifted, according to Art. 40, paragraph 3.

For the patenting abroad of the inventions referred to in paragraph 1 above, Romanian applicant or patent owners may avail themselves of financial support, pursuant to the law.

With regard to the inventions referred to in paragraph 1, the Romanian natural persons who have created them or their successors in title shall inform OSIM of their intention to apply for a patent abroad.

For the registration of international applications with a view to patenting inventions in other States, OSIM shall act as a receiving Office, pursuant to the Patent Cooperation Treaty.

Article 7 (3) to (20) of the Implementing Regulations of the Patent Law No. 64/1991 of 21/05/2008

(3) According to Art. 40 (2) of the Law, the task of assigning the state secret character to the information contained in the documents concerning the inventions in the field of the national defense or national security, for which the Ministry of Defense, Ministry of Interior and Administration Reform, Romanian Intelligence Service manifested their interest, vests in them within 60 days from the filing date.

(4) Upon the recommendation by the representatives of the Ministry of Defense, Ministry of Interior and Administration Reform or of Romanian Intelligence Service in respect of attributing the state secret character to patent applications which do not belong to the national defense or security, OSIM shall invite the representatives of the entitled institutions to say their opinion in respect of the character of information in the patent application. In the situation when, within 30 days from sending the invitation, the representatives of the entitled institutions fail to say their opinion, this information shall be deemed not to be classified.

(5) Where the information relating to an invention is classified by the habilitated institutions, the patent application is subjected to the provisions stipulated by the Law, while observing the legal provisions concerning the classified information.

(6) The representatives of the Ministry of Defense, Ministry of Interior and Administrative Reform, Romanian Intelligence Service or of other entitled institutions have the obligation to ensure transmittal, transport and storing of the documents that contain such information, based on the agreements signed with OSIM and on the provisions in force concerning the classified information.

(7) The information relating to or in connection with patent applications filed with OSIM, and classified as state secret will be protected according to the secrecy level attributed by the issuer, this having the obligation to notify OSIM about any change of the classification level and of the time period for which they were classified.

(8) The institution that classified the information relating to or in connection with the inventions as state secrets shall pay, into the account of OSIM, the annual fee for maintaining the patent application to the secrecy level assigned, within 60 days from the date of assigning

the secrecy level, and within the same period of time, it shall notify the applicant about the secrecy level assigned and the time limit for which the information was classified; the applicant may lodge an appeal to the authority that classified said information. The decision concerning the appeal shall be communicated to OSIM by the interested person within 30 days from the date of making the decision.

(9) The Ministry of Defense, Ministry of Interior and Administration Reform, the Romanian Intelligence Service and other authorized institutions may keep the copy of the description, claims and drawings of the patent application attached to the notification that OSIM transmitted, as a consequence of classifying the information, according to paragraph (8), for the whole period for which the corresponding fee for maintaining the invention in the "state secret" level has been paid.

(10) The authorized institution that has classified the information relating to or in connection with the invention shall notify OSIM of the declassification or passing thereof to a lower secrecy level, and OSIM shall deal with the invention according to the new secrecy level, or as unclassified information as the case may be.

(11) Pursuant to the provisions of Art. 40 paragraph (2) of the Law, the Ministry of Defense, the Ministry of Interior and Administration Reform, the Romanian Intelligence Service or another authorized institution shall grant an equitable material compensation to the applicant or owner of the patent that contains information classified the patent application which has been assigned the state secret status or to the patent owner, said compensation being established by contract for the whole period of maintaining the invention in this category; any litigation concerning the contract shall be solved by the law court.

(12) In case of their own inventions, the Ministry of Defense, the Ministry of Interior and Administrative Reform, the Romanian Intelligence Service or another entitled institution, in the position of applicant, shall classify the information relating to or in connection with the invention prior to transmitting and filing the patent application with OSIM.

(13) OSIM shall ensure the required conditions for keeping records, holding, handling and multiplying the information classified as state secrets contained in an invention or of the ones referring to them, depending on the secrecy level assigned, pursuant to the provisions of the special regulations.

(14) Where a patent application in the biotechnological field contains information classified as a state secret, the related microorganism deposited with an international depository institution, in order to comply with the provisions of Art. 18 paragraph (2) of the Law, shall have the same secrecy level.

(15) In order to classify the information contained in the patent applications filed with OSIM as state secret, to declassify or to pass it to a lower classification level, the representatives of the qualified institutions shall have access to all the information concerning the invention, and in case of an invention from the biotechnological field, also have access to the microorganism or to samples of the microorganism deposited to an international depository institution.

(16) Any person within OSIM that has knowledge about information classified according to the provisions of Art. 40 paragraph (2) of the Law or who perform works by using this information, shall be informed of the assigned secrecy level.

(17) If the applicant states, according to the provisions of Art. 27, that the disclosure of the invention that is the subject-matter of the patent application occurred in the conditions of the

provisions of Art. 11 of the Law and the information relating to or in connection with the invention is classified, OSIM notifies the issuer relative to the necessity of declassifying the information.

(18) Where the information relating to the patent application classified as state secret has not been declassified by observing the provisions of Art. 25 paragraph (2) of the Law, the patent application shall be declared as deemed to be withdrawn, according to the provisions of Art.28 paragraph (4) letter f) of the Patent Law.

(19) When the information relating to or in connection with the invention that is the subject-matter of the patent application has been classified as restricted documents, the director of the legal entity having the position of applicant shall declassify the information with a view to publishing the application, and shall request the publication in writing with OSIM.

(20) Failure to declassify the information provided for in paragraph (19), the patent application shall be declared as being withdrawn and the information will be maintained with OSIM as being classified as "restricted documents" up to their declassification by the issuer.

RUSSIAN FEDERATION: Articles 1349 (1), (2) and (3), 1390 (5), 1395 (1) and 1401 to 1405 of the Civil Code, Chapter 72

Article 1349. Objects of Patent Rights

1. The objects of patent rights shall be the results of intellectual activity in the scientific and technical area that meet the requirements, provided for by the present Code, for inventions and utility models and the results of intellectual activity in the area of artistic design that meet the requirements for industrial designs set forth by the present Code.

2. The provisions of the present Code extend to inventions containing information constituting a state secret (the secret inventions), unless otherwise provided for by the special provisions of Articles 1401-1405 of the present Code and by legal acts issued in accordance with them.

3. Legal protection under the present Code shall not be granted to utility models and industrial designs containing information constituting a state secret.

Article 1390. Examination of an Application for a Utility Model

5. In the case when, in the process of examination of an application for a utility model the federal executive authority for intellectual property finds that the information contained in it constitutes a state secret, the documents of the application shall be classified as secret by the procedure provided for by the official secrets legislation. In this case the applicant shall be notified of the possibility of withdrawal of the application for a utility model or of conversion into an application for a secret invention. The examination of such application shall be suspended pending until the receipt from the applicant of the appropriate request or until the declassifying of the application.

Article 1395. Patenting Inventions or Utility Models in Foreign States and in International Organizations

1. An application for the grant of a patent for an invention or utility model created in the Russian Federation may be filed with a foreign state or with an international organization upon the expiry of six months from the day of filing of the respective application with the federal executive authority for intellectual property, provided that within the said period the applicant has not been informed that the application contains information constituting an official secret. An application for an invention or utility model may be filed before the said time limit, but after the conduct at the request of the applicant of a check for presence in the application of information constituting an official state secret. The procedure for conducting a

check of the application containing information constituting an official secret shall be determined by the Government of the Russian Federation.

§ 7. Peculiarities of Legal Protection and Use of Secret Inventions

Article 1401. Filing and Processing of Applications for the Grant of a Patent for a Secret Invention

1. Filing of an application for the grant of a patent for a secret invention (an application for a secret invention), examination and processing of such an application shall be conducted in accordance with the procedure established by legislation on the official secrets.
2. Applications for secret inventions classified by degree of secrecy "extraordinary important" or "top secret", as well as for secret inventions in the field of armaments and military technology, intelligence, counterintelligence, operative and investigative activity and classified as "secret" shall be filed, depending upon the respective subject matter with the federal executive authority authorized by the Government of the Russian Federation, the State Corporation on Nuclear Power (Rosatom) (the authorized agencies). Applications for other secret inventions shall be filed with the federal executive authority for intellectual property.
3. If in the course of examination the federal executive authority for intellectual property of an application for an invention it is found that the information contained therein constitutes an official secret, such application shall be classified as secret under the procedure established by the legislation on official secrets and shall be considered to be an application for a secret invention.
Classifying as secret of the application filed by a foreign citizen or foreign legal entity shall not be allowed.
4. In processing of an application for a secret invention the provisions of Articles 1384, 1386-1389 of the present Code shall be applied, respectively. There shall not be publication of information on the application for an invention provided for by Paragraphs 1 and 2 of Article 1385 of the present Code.
5. In the determination of novelty of a secret invention, the secret inventions patented in the Russian Federation and secret inventions to which inventor's certificates have been granted in the USSR shall also be included in the prior art (Paragraph 2 of Article 1350), provided that the classification rating of secrecy for these inventions is not higher than that of the invention, whose novelty is being determined.
6. The appeal against a decision taken on the application for a secret invention by an authorized agency shall be considered under the procedure established by it. A decision taken on such an appeal may be contested in the court.
7. The provisions of Article 1377 of the present Code on the conversion of an application for an invention into an application for a utility model shall not be applied to applications for secret inventions.

Article 1402. Official Registration of a Secret Invention and the Grant of a Patent. Disclosure of Information on a Secret Invention

1. The official registration of a secret invention in the Official State Register of Inventions of the Russian Federation and grant of a patent for a secret invention shall be carried out by the federal executive authority for intellectual property, or, if the decision to grant a patent for a secret invention has been taken by an authorized agency, by the said agency. An authorized agency that has registered a secret invention and granted a patent for a secret invention shall notify the federal executive authority for intellectual property to that effect.
The authorized agency that has registered a secret invention and granted a patent for it shall rectify obvious and technical errors in the patent for the secret invention and/or into the Official Register of Inventions of the Russian Federation.
2. Information on applications and patents for secret inventions as well as changes in the registers relating to secret inventions shall not be published in the Official Register of

Inventions of the Russian Federation. Any disclosure of information about such patents shall be in line with the legislation on the official secrets.

Article 1403. Change of the Classification Rating of Secrecy and Declassification of Inventions

1. Change in classification rating of secrecy and declassification of inventions as well as change or removal of secrecy classification stamps from the documents of an application and a patent for a secret invention shall be carried out under the procedure established by the legislation on official secrets.
2. In case of raising the classification rating of secrecy of an invention, the federal executive authority for intellectual property shall communicate the documents of the application for a secret invention depending on the subject matter to the appropriate authorized agency. Subsequent processing of an application proceedings in respect of which at the time of raising the classification rating of secrecy has not been completed by the said federal authority shall be carried out by the authorized agency. In case of reduction of the classification rating of secrecy of an invention, the subsequent processing of an application for the secret invention shall be carried out by the same authorized agency that previously processed the application.
3. In case of declassification of an invention the authorized agency shall communicate the declassified documents of the application to the federal executive authority for intellectual property. The subsequent processing of an application proceedings in respect of which has not been completed before the time of declassification by the authorized agency shall be carried out by the said federal authority.

Article 1404. Recognition of the Invalidity of a Patent for a Secret Invention

An appeal against the grant by an authorized agency of a patent for a secret invention on the grounds provided for in subparagraphs 1 - 3 of Paragraph 1 of Article 1398 of the present Code shall be submitted to this authorized agency and shall be processed in accordance with its procedure. The decision of the authorized agency in respect of which an appeal shall be approved by the head of the said agency, shall become effective from the date of such approval and may be contested in the court.

Article 1405. Exclusive Right to a Secret Invention

1. The use of a secret invention and the disposition of the exclusive right to a secret invention shall conform to the legislation on official secrets.
2. A contract on alienation of a patent as well as a license contract for the use of a secret invention shall be registered in the agency that granted the patent for the secret invention or its legal successor and, in the absence of a legal successor, in the federal executive authority for intellectual property.
3. A public offer to conclude a contract on alienation of a patent and a declaration on open license provided for respectively by Paragraph 1 of Article 1366 and Paragraph 1 of Article 1368 of the present Code are not allowed with respect to a secret invention.
4. A compulsory license provided for by Article 1362 of the present Code shall not be granted with respect to a secret invention.
5. The activities provided for by Article 1359 of the present Code, as well as the use of a secret invention by a person that was not aware and could not be reasonably aware of the existence of a patent for the given invention shall not be deemed as an infringement of the exclusive right of the holder of a patent for a secret invention. Following the declassification of the invention or notification of the said person by the patent holder on the existence of a patent for the particular invention such person shall be obligated to cease using the invention and to conclude a license contract with the patent holder except the case where the right of prior use has been existed.
6. Levy of execution on the exclusive right to a secret invention is not allowed.

RWANDA:

No provision of law on security measures related to patents in the Law No. 31/2009 of 26/10/2009 on the Protection of Intellectual Property

SAINT KITTS AND NEVIS: *Article 2 of the Patents (Public Officers) Regulations*

2. Application for Provisional Protection.

(1) Any officer in the employment of the Government who has made an invention

(a) may, at his or her own expense, and

(b) shall, at the expense of the Government if so required by the Minister, lodge an application for provisional protection with the Registrar of Patents, and shall at the same time send a copy of the application to the Minister through the head of his or her department.

(2) The Minister shall decide as expeditiously as possible whether the invention shall be regarded as secret, and the decision shall be forthwith communicated to the head of the officer's department for the information of the officer.

SAINT LUCIA: *Sections 29 and 30 of the Patents Act No. 16 of 2001*

Information prejudicial to defence of Saint Lucia or safety of public

29.— (1) Where an application for a patent is filed with the Registrar, whether under this Act or any treaty or international convention to which Saint Lucia is a party, and it appears to the Registrar that the application contains information of a description notified to him or her by the Minister as being information the publication of which might be prejudicial to the national security of Saint Lucia, the Registrar shall give directions prohibiting or restricting the publication of that information or its communication to any specified person or description of persons.

(2) If it appears to the Registrar that any application so filed contains information the publication of which might be prejudicial to the safety of the public, the Registrar may give directions prohibiting or restricting the publication of that information or its communication to any specified person or description or persons until the end of a period not exceeding three months from the end of a period prescribed for the purposes of section 23.

(3) While directions are in force under this section with respect to an application —

(a) if the application is made under this Act, it will be held in abeyance after the formal requirements of this Act and the Regulations have been met and will not proceed to be processed in accordance with section 25 until the directions are revoked under subsection (4) (e); and

(b) if it is an international application for a patent, a copy of it shall not be sent to the International Bureau or any international searching authority appointed under the Patent Co-operation Treaty.

(4) Where the Registrar gives directions under this section with respect to any application, he or she shall give notice of the application and of the directions to the Minister, and the following provisions shall then have effect —

(a) the Minister shall, on receipt of the notice, consider whether the publication of the application or the publication or communication of the information in question would be prejudicial to the defence of Saint Lucia or the safety of the public;

(b) if the Minister determines under paragraph (a) that the publication or communication of that information would be prejudicial to the safety of the public, he or she shall notify the Registrar who shall continue his directions under subsection (2) until they are revoked under paragraph (e);

(c) if the Minister determines under paragraph (a) that the publication of the application or the publication or communication of that information would be prejudicial to the defence of Saint Lucia or the safety of the public, the Minister shall, unless a notice under paragraph (d) has previously been given by the Minister to the Registrar, reconsider that question during the period of nine months from the date of filing the application and at least once in every subsequent period of twelve months;

(d) if on consideration of an application at any time it appears to the Minister that the publication of the application or the publication or communication of the information contained in it would not, or would no longer, be prejudicial to the defence of Saint Lucia or the safety of the public, he or she shall give notice to the Registrar to that effect; and

(e) on receipt of such a notice the Registrar shall revoke the directions, and may, subject to such conditions, if any, as he or she thinks fit, extend the time for doing anything required or authorised to be done by or under this Act in connection with the application, whether or not that time has previously expired.

(5) The Minister may at any time, for the purpose of enabling him or her to decide the question referred to in subsection (4) (c), do one or both of the following, that is to say, inspect or authorise any person to inspect the application and any documents sent to the Registrar in connection with it and where a person is authorised to carry out such inspection, he or she shall as soon as practicable report on his or her inspection to the Minister.

(6) Where directions given under this section in respect of an application for a patent for an invention are revoked, and the application is brought in order for the grant of a patent and a patent is granted for the invention, then —

(a) if while the directions are in force the invention is worked by, or with the written authorization of or to the order of, a Government department, the provisions of Part XII shall apply as if —

(i) the working was use made pursuant to section 57;

(ii) the application had been published at the end of the prescribed period or at the time the directions were revoked, whichever is earlier; and

(iii) a patent had been granted for the invention at the time the application is brought in order for the grant of a patent, taking the terms of the patent to be those of the application as it stood at the time it was so brought in order; and

(b) if it appears to the Minister that the application for the patent has suffered hardship while the directions were in force, the Minister may make such payment, if any, by way of compensation to the applicant as appears to the Minister to be reasonable having regard to the inventive merit and utility of the invention, the purpose for which it is designed and any other relevant circumstances.

(7) Where a patent is granted pursuant to an application in respect of which directions have been given under this section, no renewal fees shall be payable in respect of any period during which those directions were in force.

(8) Any person who fails to comply with any direction under this section commits an offence and is liable on conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year or to both.

(9) Nothing in this section shall prevent the disclosure of information concerning an invention to a Government department or authority for the purpose of obtaining advice as to whether directions under this section with respect to an application for a patent for that invention should be made, amended or revoked.

Restrictions on applications abroad by Saint Lucia residents

30.— (1) Subject to this section, a person resident in Saint Lucia shall not, without written authority granted by the Registrar, file or cause to be filed outside Saint Lucia an application for a patent for an invention unless –

(a) an application for a patent for the same invention has been filed in the Registry not less than two months before the application outside Saint Lucia; and

(b) no directions have been given under section 29 in relation to the application in Saint Lucia or all such directions have been revoked.

(2) Subsection (1) shall not apply to an application for a patent for an invention for which an application for a patent has first been filed in a country outside Saint Lucia by a person who is resident outside Saint Lucia.

(3) A person who files, or causes to be filed an application for the grant of a patent in contravention of this section commits an offence and is liable on conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year or to both.

SAINT VINCENT AND THE GRENADINES:

No provision of law on security measures related to patents in the Patents Act, Act No. 39 of 2004

SAMOA:

No provision of law on security measures related to patents in the Intellectual Property Act, Act No. 9 of 2011

SAO TOME AND PRINCIPE:

No provision of law on security measures related to patents in the Law No. 4/2001 of 31/12/2001 on Industrial Property

SAUDI ARABIA: *Article 49 of the implementing regulations of Law of Patents, Layout-Designs of Integrated Circuits, Plant Varieties, and Industrial Designs of 26/12/2004*

Article (49):

Procedures for security related applications shall be as follows:

1. Each government employee, military or civilian, who invents a device or military ammunition within the scope of his duties, undertakes to assign his invention and all resulting benefits to the competent authority in the government upon its approval.
2. Also, any person, other than the above mentioned, who invents a device or military ammunition, undertakes to assign his invention and all resulting benefits to the competent authority in the government upon its approval. This authority shall pay the person a fair compensation.
3. Each person who assigns his invention to the competent authority in the government in accordance with the above two paragraphs and all others who are aware of the assignment undertake to keep secret the invention and the assignment, and shall not disclose the same except to authorized persons.
4. The competent authority in the government, after obtaining the necessary assignment from the inventors, may apply to the Chairman of the City for a patent for all these inventions and enclose with the application a request to keep the application confidential. The City shall follow all usual procedures in connection with the application and undertake not to publish information about it.
5. The application, specification, drawings, amendments, the patent and any copy thereof shall be kept in a sealed and stamped file, and it shall be at the disposal of the competent authority in the government throughout the term of the protection. It may not be opened save by the competent authority or by its order.
6. Contents of the sealed file may not be made available for publication or review by others under any circumstances.
7. The sealed, stamped file shall be delivered at any time during the term of protection to any person to whom the competent authority in the government requests delivery, and it shall be resealed and stamped again immediately upon its return.
8. The sealed, stamped file shall be sent to the competent government authority after the expiration of the protection period of the invention.
9. An application to repeal a decision granting a patent in accordance with this Article may not be accepted except with the approval of the competent government authority.
10. Initiation of an action for infringement in connection with these inventions may not be permitted.

11. Communications with the competent government authority in connection with an invention that includes the development of weapons or ammunitions for the purpose of examination and study of the invention shall not be considered disclosure or use. Nor shall actions, not deemed to affect the entitlement to the patent, taken by the competent government authority for the purpose of studying and examining the invention.

12. The Chairman of the City may order that the application and invention be dealt with as if licensed to the competent government authority, if he determines that a given invention in the field of weaponry and ammunitions, as described in the patent application, has not been assigned to the competent government authority, is security related, and its publication is prohibited on national security grounds.

SERBIA: Articles 51 to 56 of the Law on Patents no. 99/11 of 27/12/2011

Secret Application

Article 51

An application filled by a national of Republic of Serbia which is found to be important for the defence or security of the Republic of Serbia is considered to be secret application.

Application under paragraph 1 of this Article shall be filed with the authority competent in national defence.

Procedure in Respect of the Application

Article 52

If the competent authority estimates in its examination of a patent or petty patent application that it falls under the category to be important for the defence or security of the Republic of Serbia it shall forward application to the authority competent in national defence, and such application shall retain the filing date accorded to it by the competent authority.

If the authority competent in national defence finds in its examination of an application filed that is not secret, it shall forward the application to the competent authority within three months from the reception of the application referred to in paragraph 1 of this Article.

If an application has ceased to be secret, authority competent in national defence shall forward such application to the competent authority without delay. Such application shall retain the filing date accorded to it by the competent authority.

Expert Opinion

Article 53

In the examination of an application for a secret invention, the authority competent in national defence may request an expert opinion from the competent authority on whether the secret invention claimed in the application fulfils legal requirements for protection of patent or petty patent.

The competent authority shall prescribe the particulars of the expert opinion under paragraph 1 of this Article.

Secret invention

Article 54

A secret invention shall not be published.

A national of Republic of Serbia may claim protection for a secret invention abroad only on approval of the authority competent in national defence.

Any issue related to the method, procedure and protection measures of a secret invention before the authority competent in national defence shall be subject to regulations regulating national defence of the Republic of Serbia.

Procedure Following the Grant of Right
Article 55

If the authority competent in national defence establishes, upon the grant of a patent or petty patent for a secret invention, that the invention has ceased to be secret, it shall forward the file concerning the invention to the competent authority, which shall enter the patent or petty patent into the appropriate Register, publish the mention of the granted right and issue a corresponding certificate to the right holder, in accordance with the provisions of this Law.

Right to Use
Article 56

The authority competent in national defence or in internal affairs shall have the exclusive right to use and dispose of a secret invention.

Any issue related to inventor's right to the remuneration for the protected secret invention shall be subject to regulations regulating national defence of the Republic of Serbia.

SEYCHELLES:

No provision of law on security measures related to patents in the Industrial Property Act, Act No. 7 of 2014

SIERRA LEONE:

No provision of law on security measures related to patents in the Patents and Industrial Design Act, Act No. 10 of 2012

SINGAPORE: *Sections 33 and 34 of the Patents Act, Chapter 221, Act 21 of 1994, consolidated version of 10/03/2014*

Information prejudicial to defence of Singapore or safety of public

33.—(1) Where an application for a patent is filed in the Registry (whether under this Act or any treaty or international convention to which Singapore is a party) and it appears to the Registrar that the application contains information of a description notified to him by the Minister as being information the publication of which might be prejudicial to the defence of Singapore, the Registrar shall give directions prohibiting or restricting the publication of that information or its communication to any specified person or description of persons.

(2) If it appears to the Registrar that any application so filed contains information the publication of which might be prejudicial to the safety of the public, he may give directions prohibiting or restricting the publication of that information or its communication to any specified person or description of persons until the end of a period not exceeding 3 months from the end of a period prescribed for the purposes of section 27.

(3) While directions are in force under this section with respect to an application —
(a) if the application is made under this Act, it will be held in abeyance after the formal requirements of this Act and the rules have been met and will not proceed to be processed in accordance with section 29 until the directions are revoked under subsection (4)(e); and

(b) if it is an international application for a patent, a copy of it shall not be sent to the International Bureau or any international searching authority appointed under the Patent Co-operation Treaty.

(4) Where the Registrar gives directions under this section with respect to any application, he shall give notice of the application and of the directions to the Minister, and the following provisions shall then have effect:

- (a) the Minister shall, on receipt of the notice, consider whether the publication of the application or the publication or communication of the information in question would be prejudicial to the defence of Singapore or the safety of the public;
- (b) if the Minister determines under paragraph (a) that the publication or communication of that information would be prejudicial to the safety of the public, he shall notify the Registrar who shall continue his directions under subsection (2) until they are revoked under paragraph (e);
- (c) if the Minister determines under paragraph (a) that the publication of the application or the publication or communication of that information would be prejudicial to the defence of Singapore or the safety of the public, he shall (unless a notice under paragraph (d) has previously been given by the Minister to the Registrar) reconsider that question during the period of 9 months from the date of filing the application and at least once in every subsequent period of 12 months;
- (d) if on consideration of an application at any time it appears to the Minister that the publication of the application or the publication or communication of the information contained in it would not, or would no longer, be prejudicial to the defence of Singapore or the safety of the public, he shall give notice to the Registrar to that effect; and
- (e) on receipt of such a notice the Registrar shall revoke the directions and may, subject to such conditions (if any) as he thinks fit, extend the time for doing anything required or authorised to be done by or under this Act in connection with the application, whether or not that time has previously expired.

(5) The Minister may at any time, for the purpose of enabling him to decide the question referred to in subsection (4)(c), do one or both of the following, that is to say, inspect or authorise any person to inspect the application and any document sent to the Registrar in connection with it and where a person is authorised to carry out such inspection, he shall as soon as practicable report on his inspection to the Minister.

(6) Where directions given under this section in respect of an application for a patent for an invention are revoked, and the application is brought in order for the grant of a patent and a patent is granted for the invention, then —

(a) if while the directions are in force the invention is worked by (or with the written authorisation of or to the order of) a Government department, the provisions of Part XII shall apply as if —

- (i) the working were use made by section 56;
 - (ii) the application had been published at the end of the prescribed period or at the time the directions were revoked, whichever is earlier; and
 - (iii) a patent had been granted for the invention at the time the application is brought in order for the grant of a patent (taking the terms of the patent to be those of the application as it stood at the time it was so brought in order); and
- (b) if it appears to the Minister that the applicant for the patent has suffered hardship while the directions were in force, the Minister may make such payment (if any) by way of compensation to the applicant as appears to the Minister to be reasonable having regard to the inventive merit and utility of the invention, the purpose for which it is designed and any other relevant circumstances.

(7) Where a patent is granted in pursuance of an application in respect of which directions have been given under this section, no renewal fees shall be payable in respect of any period during which those directions were in force.

(8) Any person who fails to comply with any direction under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 2 years or to both.

(9) Nothing in this section shall prevent the disclosure of information concerning an invention to a Government department or authority for the purpose of obtaining advice as to whether

directions under this section with respect to an application for a patent for that invention should be made, amended or revoked.

Restrictions on applications abroad by Singapore residents

34.—(1) Subject to this section, no person resident in Singapore shall, without written authority granted by the Registrar, file or cause to be filed outside Singapore an application for a patent for an invention unless —

(a) an application for a patent for the same invention has been filed in the Registry not less than 2 months before the application outside Singapore; and

(b) no directions have been given under section 33 in relation to the application in Singapore or all such directions have been revoked.

(2) Subsection (1) shall not apply to an application for a patent for an invention for which an application for a patent has first been filed in a country outside Singapore by a person resident outside Singapore.

(3) Any person who files or causes to be filed an application for the grant of a patent in contravention of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 2 years or to both.

(4) In this section —

(a) any reference to an application for a patent includes a reference to an application for other protection for an invention;

(b) any reference to either kind of application is a reference to an application under this Act, under the law of any country other than Singapore or under any treaty or international convention to which Singapore is a party; and

(c) “person resident in Singapore” includes a person who, at the material time, is residing in Singapore by virtue of a valid pass lawfully issued to him under the Immigration Act (Cap. 133) to enter and remain in Singapore for any purpose.

SLOVAKIA: Article 59 and 60 of the Act No. 435/2001 Coll. on Patents, Supplementary Protection Certificates and Amendment of Some Acts (The Patent Act)

Protection of confidential information

Article 59

(1) If a national applicant knows or due to circumstances should know that an application contains confidential information pursuant to a special regulation, he shall be obliged to request confidentiality for an application in the application.

(2) Applicant shall be obliged to file an application pursuant to paragraph 1, which is an international application or a European patent application, with the Office.

(3) The Office after conferring a filing date (Article 35) shall deliver one version of an application to the National Security Office (hereinafter referred to as “Security Office”) together with request for decision on confidentiality of an application pursuant to a special regulation or with request for permission of filing an application abroad.

(4) The Office may proceed pursuant to paragraph 3 also in case when an applicant has not requested confidentiality for an application pursuant to paragraph 1.

(5) The Security Office shall decide on request pursuant to paragraph 3 and deliver decision to the Office. In case that an international convention, treaty or agreement, by which the Slovak Republic is being bound, enables it, the Security Office shall supplement decision with a request confidentiality for subject-matter of an application by contracting party, in which an application shall be filed. The Office shall notify an applicant on decision of the Security Office.

(6) Application pursuant to paragraph 1, which is neither a European patent application nor an international application, may be filed by an applicant directly abroad only on basis of permission of the Security Office pursuant to paragraph 3, issued on request of an applicant.

(7) If in a consequence application confidentiality or as a result of refusing request for permission to file an application abroad pecuniary injury, consisting in preventing or restricting commercial exploitation of a patent (Article 3(h)), incurs to a patent owner, he shall be entitled to a compensation of pecuniary injury towards the Slovak Republic represented by a state administration authority to competence of which subject-matter of a confidential application belongs.

(8) Article 11(5) shall apply mutatis mutandis to determination of amount of pecuniary injury pursuant to paragraph 7.

(9) Patent applications, European patent applications or international applications, for confidentiality of which contracting party or foreign applicant request pursuant to an international convention, treaty or agreement binding for the Slovak Republic, shall be considered confidential pursuant to a special regulation. A foreign applicant who does not act on behalf of contracting party shall be obliged to prove confidentiality of subject-matter of an application by contracting party, to submit permission of contracting party for filing an application in the Slovak Republic and to supplement a declaration on waiving any claims for compensation of damage or other pecuniary injury which might occur as a result of confidentiality of an application within the territory of the Slovak Republic.

(10) Provisions of this Act shall apply to proceedings on applications which are confidential or deemed to be confidential pursuant to a special regulation, with exception of publication (Article 41) and accessibility of data (Article 56) related to confidential application or patent.

(11) If the Security Office does not consider facts contained in an application confidential pursuant to a special regulation, the Office shall notify this fact to an applicant and shall proceed on an application without confidentiality regime.

SLOVENIA: Article 17 of the Industrial Property Act (ZIL-1-UPB3) of 23/05/2001 as last amended on 06/02/2006

Article 17

Secret inventions

(1) Invention which are important for the defence or security of the Republic of Slovenia shall be deemed secret and shall be registered at the Ministry competent for the defence.

(2) The conditions of exploitation of secret inventions, in particular compensation for the exploitation, shall be subject to mutual agreement between the inventor and the Ministry competent for the defence.

(3) The application for the invention referred to in paragraph (1) may be filed with the Office if the Ministry competent for the defence does not wish to exploit it or if it consents to the filing of the patent application.

SOUTH AFRICA: Sections 78 to 80 of the Patents Act, Act No. 57 of 1978, as last amended by Act No. 20 of 2005

78. Acquisition of invention or patent by State.

The Minister may, on behalf of the State, acquire, on such terms and conditions as may be agreed upon, any invention or patent.

79. Assignment of certain patents to the State.

(1) The proprietor of an invention relating to any armaments as defined in section 1 of the Armaments Development and Production Act, 1968 (Act No. 57 of 1968), shall, if called upon to do so by the Minister of Defence, assign the invention or the patent obtained or to be obtained for the invention to that Minister on behalf of the State.

(2) The assignment and any agreements therein contained shall be valid and effectual and may be enforced by appropriate proceedings in the name of the Minister of Defence.

(3) Where an invention has been so assigned, the Minister of Defence may, by notice in writing to the registrar, direct that the invention and the manner in which it is to be performed shall be kept secret.

(4) Every application, specification, amendment of specification or drawing received at the patent office relating to any invention in respect of which notice in terms of subsection (3) has been given, shall be sealed up by the registrar and the contents of such application, specification, drawing or other document shall not be divulged without the written permission of the Minister of Defence.

(5) The patent for any such invention may be made out in the name of the proprietor and sealed, but such patent shall be delivered to the Minister of Defence and not to such proprietor and shall be the property of the State, and no proceedings shall lie for the revocation of the patent.

(6) The communication of any such invention to the Minister of Defence or to any person authorized by him to inquire into the invention shall not, nor shall anything done for the purpose of the inquiry by such person, be deemed to be publication or use of the invention so as to prejudice the grant or validity of any patent for the invention.

(7) The Minister of Defence may by notice in writing to the registrar direct that any invention directed to be kept secret need no longer be kept secret, and thereupon the specification and drawings may be published.

(8) The said Minister shall pay to the proprietor of the invention or patent such reasonable compensation as may be agreed upon or as may, in default of agreement, be determined by arbitration or, if the parties so agree, by the commissioner.

80. Minister may require inventions to be kept secret in certain circumstances.

(1) If the Minister is of opinion that in the national interest an application, specification, drawing or other document relating to any invention should be kept secret, he may order the registrar to keep the invention secret and to notify the applicant accordingly, and if any Minister of State desires to acquire such invention on behalf of the State, the provisions of section 79 shall as far as applicable apply, and for that purpose the reference in section 79 to the Minister of Defence shall be deemed to be a reference to the said Minister of State.

(2) Whenever any order issued by the Minister under this section is withdrawn, any steps which were prior to the date of that order taken under this Act in connection with the application which was the subject of that order, and which were interrupted in consequence of that order, may be proceeded with as if the interruption had not occurred, and any period which may have elapsed between the date on which that order was lodged with the registrar and the date of withdrawal thereof shall not be taken into account in the computation of any period of time prescribed by or under this Act.

(3) If the proprietor of an invention has suffered loss or damage by reason of that invention having been kept secret in pursuance of an order under subsection (1), the Minister shall pay to him such reasonable compensation as may be agreed upon or as may, in default of agreement, be determined by arbitration or, if the parties so agree, by the commissioner.

SOUTH SUDAN:

No provision of law on security measures related to patents in the Patent Law no. 58 of 1971

SPAIN: *Articles 119 to 122 of the Law No. 11/1986 of 20/03/1986 on Patents, as last amended by Law No. 14/2011 of 01/06/2011*

TITULO XII

Patentes secretas

Artículo 119

1. El contenido de todas las solicitudes de patentes se mantendrá en secreto durante los dos meses siguientes a la fecha de su presentación, salvo que el Registro de la Propiedad Industrial autorice su divulgación con anterioridad.
2. Antes de que finalice el plazo mencionado en el apartado anterior, el Registro de la Propiedad Industrial deberá prorrogarlo hasta cinco meses, contados desde la presentación de la solicitud, cuando estime que la invención objeto de la misma puede ser de interés para la defensa nacional. El Registro notificará la prórroga al solicitante y pondrá inmediatamente a disposición del Ministerio de Defensa copia de la solicitud de la patente presentada.
3. A los efectos mencionados en los dos apartados anteriores, se establecerá la necesaria coordinación entre el Ministerio de Defensa y el Registro de la Propiedad Industrial para determinar cuándo una invención puede ser de interés para la defensa nacional. El Ministerio de Defensa podrá asimismo conocer bajo régimen de secreto todas las solicitudes presentadas.
4. Cuando el interés de la defensa nacional así lo exija el Ministerio de Defensa requerirá al Registro de la Propiedad Industrial para que antes de que finalice el plazo de cinco meses establecido en el apartado anterior decreta la tramitación secreta de la solicitud de patente y haga la correspondiente notificación al solicitante.
5. Mientras la solicitud de patente o la patente estén sometidas al régimen de secreto, el solicitante o el titular deberán abstenerse de cualquier actuación que pueda permitir el conocimiento de la invención por personas no autorizadas.
6. El Ministerio de Defensa, a petición del titular, podrá autorizar actos encaminados a la explotación total o parcial del objeto de la solicitud o de la patente, señalando las condiciones a que estarán sometidos dichos actos.

Artículo 120

1. La patente cuya concesión se hubiera tramitado en secreto se inscribirá en un registro secreto y se mantendrá en ese mismo régimen durante un año a partir de la fecha de su concesión. La prolongación de ese plazo deberá hacerse anualmente, haciendo la correspondiente notificación al titular de la patente.
2. La renovación anual de la clasificación como secreto no será precisa en tiempo de guerra hasta un año después del cese de las hostilidades.
3. El Registro de la Propiedad Industrial, previo informe favorable del Ministerio de Defensa, podrá levantar en cualquier momento el secreto impuesto sobre una solicitud o sobre una patente determinada.

Artículo 121

1. Las patentes secretas no estarán sujetas al pago de anualidades.
2. El titular de una patente podrá reclamar al Estado una compensación por el tiempo en que aquélla se mantuvo secreta. Esta compensación, que podrá ser reclamada por cada año transcurrido, será acordada entre las partes. Si no se llegara a un acuerdo, la compensación se fijará judicialmente, teniendo en cuenta la importancia de la invención y el beneficio que el titular hubiera podido obtener de la libre explotación de la misma.

3. Si la invención objeto de la patente secreta hubiera sido divulgada por culpa o negligencia de su titular, éste perderá el derecho a la compensación.

Artículo 122

1. A los efectos de lo dispuesto en los artículos anteriores, cuando se trate de invenciones realizadas en España, no podrá solicitarse patente en ningún país extranjero antes de transcurridos dos meses desde que se solicitó la patente ante el Registro español de la Propiedad Industrial, a menos que se hubiera hecho con expresa autorización de éste. Dicha autorización no podrá concederse en ningún caso para aquellas invenciones que interesen a la defensa nacional, salvo autorización expresa del Ministerio de Defensa.

2. Cuando el inventor resida habitualmente en España, se presume, salvo prueba en contrario, que la invención se realizó en territorio español.

SRI LANKA: Article 62 (3) of the Intellectual Property Act No. 36 of 2003

Definition of invention

62. (3) The following, notwithstanding they are inventions within the meaning of subsection (1), shall not be patentable—

(e) an invention which is useful in the utilization of special nuclear material or atomic energy in an atomic weapon ;

SUDAN:

No provision of law on security measures related to patents in the Patent Law no. 58 of 1971

SWAZILAND:

No provision of law on security measures related to patents in the Patents, Utility Models and Industrial Designs Act of 1997

SWEDEN: Articles 78 and 79 of the Patents Act (1967:837) as last amended on 01/01/2011 and Defence Inventions Act (1971:1078) (available only in Swedish)

Article 78. If the country is at war or in danger of war, the Government, when called for in the public interest, may prescribe that the right to a specific invention shall be surrendered to the State or to another party designated by the Government. A reasonable compensation shall be paid for the right to the invention thus surrendered. If no agreement on the compensation can be reached with the party entitled to compensation, the Court shall fix the compensation. If a party other than the State has availed itself of the right to an invention pursuant to the first Paragraph and if the party does not fulfil its obligations with regard to compensation, the State shall be obliged to pay the said compensation as soon as this is requested by the party entitled to the compensation.

Article 79. Special provisions apply to inventions of importance for the defence of the country.

SWITZERLAND:

No provision of law on security measures related to patents in the Patents Law of 25/06/1954, as of 01/01/2012.

TAJIKISTAN: *Articles 4, 5, 8 and 10 of the Law of the Republic of Tajikistan on Secret Inventions of 21/07/2010*

Article 4. Classification of inventions containing information classified as a state secret

1. In case of an application for a protection document for an invention, filed in accordance with the Law of the Republic of Tajikistan "On Inventions", the Patent Office shall process the application in order to identify any information classified as a state secret, and shall classify applications containing such information. The procedure of filing and examination of applications for a patent for a secret invention shall be determined by the Patent Office.
2. The Ministries, state committees, administrative agencies (hereinafter – state bodies) which have the lists of information subject to classification, have the right to classify the inventions containing information classified as a state secret and file applications marked for the appropriate classification level through their security-secrecy departments with the Patent Office.
3. The Patent Office shall also accept for examination applications for inventions with a claim to classification filed by individuals referred to in Article 7 of this law (hereinafter - applicants), through the appropriate security-secrecy departments of the employer or, in the absence of such an opportunity, directly as provided for by the Law of the Republic of Tajikistan "On Inventions".
4. The procedure for classification of applications, containing information classified as a state secret, determination of classification level, and the terms of review, shall be the authority of the state bodies appointed by the Government of the Republic of Tajikistan in accordance with the Law of the Republic of Tajikistan "On State Secret", as well as this Law.

Article 5. The right to a secret invention and its use

1. The right to a secret invention and its use is protected by this law, the Law of the Republic of Tajikistan "On State Secret", as well as by other normative legal acts of the Republic of Tajikistan.
2. The right to the secret invention and its use shall within the whole classification period belong to the Republic of Tajikistan represented by the state bodies classifying such an invention. A secret invention may be used according to the classification level of the state secret of the Republic of Tajikistan pursuant to the requirements of the Law of the Republic of Tajikistan "On State Secret".
3. The use of a secret invention by a third party, be it in the national interest, may be authorized by the classifying state body in the order prescribed by the Government of the Republic of Tajikistan in compliance with its classification status.
4. The right of ownership of a secret invention shall belong to the Republic of Tajikistan for the whole term of classification.

Article 8. Conditions on protectability of a secret invention

1. The conditions on patentability of an invention prescribed by the Law of the Republic of Tajikistan "On Inventions" shall apply to determine the legal protectability of the secret invention.
2. When determining the novelty of the secret invention, along with the information stipulated by the Law of the Republic of Tajikistan "On inventions", the state of the art shall include the following documents in case they have earlier priority:
–protection documents of the Republic of Tajikistan for the secret objects of industrial property;

- applications for protection documents for secret items of industrial property filed in the Republic of Tajikistan by other parties (with the exception of withdrawn applications);
 - information containing a state secret disclosed in a printed publication or another source of information, that has become available in the Republic of Tajikistan to parties having lawful access to such information before the priority date of the claimed secret invention.
3. When determining the novelty of the secret invention, the level of classification of the information categorized as a state secret included in the state of the art may not be higher than the level of classification of the claimed secret invention.

Article 10. Examination and registration of secret inventions

1. Applications for secret inventions classified pursuant to Articles 4 and 7 of this Law shall be subject to a secret invention examination pursuant to the unclassified invention procedure provided for by the Law of the Republic of Tajikistan “On Inventions”, subject to the following particulars:

- examination of an application for a secret invention shall consist of a formal examination and a review of the merits;
- in reviewing the merits, the Patent Office may engage representatives of the relevant state bodies;
- heads of the proper state bodies shall formally dispatch the aforementioned specialists, subject to payment of their average compensation, as well as a travel and accommodation allowance;
- examination on the merits of an application concerning a new weapon, military equipment or a special device, shall be carried out following the respective resolution of the appropriate state bodies, the list of which is to be determined by the Government of the Republic of Tajikistan;
- the cost of the examination shall be borne by the state bodies classifying the invention.

2. Upon completion of the merits review, the application for the object classification shall either be upheld or dismissed.

3. Should the Patent Office recognize the claimed invention as a secret one, the Patent Office shall enter the secret invention in the State registry of secret inventions of the Republic of Tajikistan and grant the protection document to the author (or authors).

4. The information concerning the secret inventions shall be entered into the State registry of secret inventions of the Republic of Tajikistan. The rules of record keeping by the State registry of secret inventions of the Republic of Tajikistan shall be enacted by the Government of the Republic of Tajikistan.

5. The access to the information concerning registered secret inventions shall be subject to the state secret regulations provided for by the Law of the Republic of Tajikistan “On State Secret”.

THAILAND:

No provision of law on security measures related to patents in the Patent Act B.E. 2522 of 1979 as last amended on 01/01/1999

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA: *Articles 71 to 73 of the Law on Industrial Property No. 07-1006/1 of 12/02/2009*

Confidential patent

Article 71

(1) The applications for grant a patent relating to defence shall be deemed confidential and are filed to the Minister for Defence.

- (2) If during the examination process of the filed application, the Minister for Defence finds that the invention is not confidential, the application shall be forwarded to the Office.
- (3) The provisions of this Law shall also be applied in the process of patent granting with regard to confidential invention, unless otherwise determined by this Law.
- (4) If during the examination process of the filed application, the Minister for Defence finds that the invention is not confidential, the application shall be forwarded to the Office.
- (5) If during the examination procedure of the application, the Office finds the invention to be confidential, it shall forward the application to the Minister for Defence.
- (6) If the Minister for Defence finds that the invention has ceased to be confidential, the whole subject shall be submitted to the Office.
- (7) After receiving the subject, the Office shall note the patent in the register of patents and shall issue the patent holder a patent certificate or a specification and publish the data within the meaning of Article 60 of this Law.

Use of confidential invention

Article 72

- (1) The Ministry of Defence shall have the exclusive right to use the confidential invention and have at its availability that invention.
- (2) The holder of the right shall be entitled to a one-time compensation for confidential invention which is protected with a patent, regardless if the invention is used for the needs of defence and to what extent.
- (3) The amount of the compensation referred to in paragraph (2) of this Article shall be determined amicably by the right holder and the Minister for Defence.
- (4) In case agreement is not reached, the holder of the patent right, in accordance with the rules outside the proceedings, may request the court to determine the amount of the compensation.

Properties of the confidential patent

Article 73

- (1) The patent related to a confidential invention shall not be published.
- (2) The local and natural persons may request protection of a confidential invention abroad only on the basis of an approval in writing by the Minister for Defence.
- (3) Articles 71 and 72 of this Law shall apply accordingly to the patent applications for grant of a patents for inventions which are of interest to the state security.
- (4) The Minister for Interior shall be competent to decide on the applications referred to in paragraph (3) of this Article.
- (5) The Government of the Republic of Macedonia shall prescribe which inventions are considered as confidential within the meaning of Articles 71 and 73 of this Law, as well as the method of patent granting for such inventions.

TONGA:

No provision of law on security measures related to patents in the Industrial Property Act, Act No. 19 of 1994

TRINIDAD AND TOBAGO:

No provision of law on security measures related to patents in the Patents Act No. 21 of 1996, as last amended by Act No. 18 of 2000

TUNISIA:

No provision of law on security measures related to patents in the Law No. 2000-84 of 24/08/2000 on Patents

TURKEY: Articles 125 to 128 of the Decree Law No.551 pertaining to the protection of patent rights of 24/06/1995 as last amended by the Decision of the Constitutional Court No. 2009/19 of 5/02/2009

SECTION TWO
Secret Patent

Term and Conditions for keeping under secrecy

Article 125:

The contents of an application for patent shall be kept secret, for a time-period of two months, as from the date of filing of the application unless the Institute decides to disclose same earlier.

The Institute may extend the time-period during which the application for patent is kept under secrecy up to five months as from the date of filing of the application, if it comes to consider that the invention, subject matter of the application, is of importance for national defense. The Institute shall notify the situation in writing to the applicant and shall instantly inform the Ministry of National Defense by forwarding them the copy of the application.

For the purposes mentioned under the paragraphs one and two of this present Article, the Institute and the Ministry of National Defense shall cooperate and shall determine the inventions held to be of importance for national defense. The Ministry of National Defense has authority to examine, beforehand, all applications for patent, under the condition to respect the obligation to secrecy.

When national defense interests are of question, the Ministry of National Defense, by request made (in writing) before the expiry of the said period of 5 months, may ask the Institute that the application for patent be prosecuted under secrecy and that the applicant be kept informed of such situation.

Where the application for patent or the patent is kept under secrecy, the applicant or the patentee shall have to shun such acts as might convey information about the contents of the invention to unauthorized persons.

The Ministry of National Defense, upon the request of the applicant or the patentee may allow that the subject matter of the application for patent or of the patent be used, in part or in whole, under the conditions to be laid down by the Ministry of National Defense.

Register for Secret Patents, Extension of Secrecy Period and Rescinding Secrecy

Article 126:

The patent issued under the rule of secrecy is entered in the, secretly held, Register for Secret Patents, and shall be kept under secrecy for the length of one year as from the date of issue. The secrecy period may be extended by period(s) of one year. The patentee shall be kept informed in case of such extension.

Yearly extension of secrecy period shall not be implemented during war and until one year after cease fire.

Upon the authorization of the Ministry of National Defense, the Institute, may, at any time, rescind, the secrecy under which the patent or the application for patent has been placed.

Annuities and Compensation regarding Patents under Secrecy

Article 127:

The payment of the yearly patent annuities shall not be mandatory, for secret patents.

The right holder of patent may claim compensation from the State for the length of the time-period during which the patent is kept under secrecy. The compensation shall be claimed, at the end of each (calendar) year, during which the patent has remained under secrecy, for the said year. If no agreement is reached on the amount of compensation, the said amount shall be determined by the court. The compensation shall be calculated taking into consideration the importance of the invention and the income estimate in case the right holder of patent can make free use of it.

Where the invention, subject matter of the secret patent is disclosed by a fault on the part of the patentee, no right to claim compensation shall arise.

Obtention of authorization to file an Application in a foreign country for Patents under Secrecy

Article 128:

Where an invention made in Turkey is subject to the provision of Article 125, no application for patent can be filed, in any foreign country, for the said invention, without the Institute's permission and before the expiry of a time-period of two months as from the date of filing of the application for patent before the Institute. Permission to file an application in any foreign country shall not be issued without the specific authorization of the Ministry of National Defense.

Where the inventor is domiciled in Turkey, until proof to the contrary, the invention shall be deemed to have been realized in Turkey.

TURKMENISTAN: *Article 49 of the Law of Turkmenistan No. 220-III of October 23, 2008, on Inventions and Industrial Designs (as amended up to Law No. 14-IV of June 22, 2013)*

Статья 49. Патентование изобретений, промышленных образцов в зарубежных странах
1. Заявка на изобретение, промышленный образец, созданные в Туркменистане, может быть подана в зарубежные государства или международную организацию по истечении четырех месяцев с даты подачи соответствующей заявки на изобретение, промышленный образец в Туркменпатент, если в указанный период заявитель не будет уведомлен о том, что в заявке содержатся сведения, составляющие государственную тайну. Заявка на изобретение, промышленный образец может быть подана для зарубежного патентования ранее указанного срока, если проверка заявки, проведенная по просьбе заявителя, не выявит содержания в ней сведений, составляющих государственную тайну.

UGANDA:

No provision of law on security measures related to patents in the Patents Act, Chapter 216, of 15/10/1993

UNITED ARAB EMIRATES: *Article 6(2) of the Federal Law No. 31 of 2006 Pertaining to the Industrial Regulation and Protection of Patents, Industrial Drawings, and Designs*

6.

2-If it is evident to the administration upon examination of the patent application that the scope of the invention relates to the national defense, then the procedures provided for in the implementing regulations of this law shall be undertaken thereon.

UNITED KINGDOM: *Sections 16 (2), 22 and 23 of the Patents Act of 1977 as on October 2011 (consolidated version).*

Publication of application

16.(2) The comptroller may omit from the specification of a published application for a patent any matter –

(a) which in his opinion disparages any person in a way likely to damage him, or

(b) the publication or exploitation of which would in his opinion be generally expected to encourage offensive, immoral or anti-social behaviour.

Information prejudicial to national security or safety of public

22.-(1) Where an application for a patent is filed in the Patent Office (whether under this Act or any treaty or international convention to which the United Kingdom is a party and whether before or after the appointed day) and it appears to the comptroller that the application contains information of a description notified to him by the Secretary of State as being information the publication of which might be prejudicial to national security, the comptroller may give directions prohibiting or restricting the publication of that information or its communication to any specified person or description of persons.

(2) If it appears to the comptroller that any application so filed contains information the publication of which might be prejudicial to the safety of the public, he may give directions prohibiting or restricting the publication of that information or its communication to any specified person or description of persons until the end of a period not exceeding three months from the end of the period prescribed for the purposes of section 16 above.

(3) While directions are in force under this section with respect to an application –

(a) if the application is made under this Act, it may proceed to the stage where it is in order for the grant of a patent, but it shall not be published and that information shall not be so communicated and no patent shall be granted in pursuance of the application;

(b) if it is an application for a European patent, it shall not be sent to the European Patent Office; and

(c) if it is an international application for a patent, a copy of it shall not be sent to the International Bureau or any international searching authority appointed under the Patent Co-operation Treaty.

(4) Subsection (3)(b) above shall not prevent the comptroller from sending the European Patent Office any information which it is his duty to send that office under the European Patent Convention.

(5) Where the comptroller gives directions under this section with respect to any application, he shall give notice of the application and of the directions to the Secretary of State, and the following provisions shall then have effect –

(a) the Secretary of State shall, on receipt of the notice, consider whether the publication of the application or the publication or communication of the information in question would be prejudicial to national security or the safety of the public;

(b) if the Secretary of State determines under paragraph (a) above that the publication of the application or the publication or communication of that information would be prejudicial to the safety of the public, he shall notify the comptroller who shall continue his directions under subsection (2) above until they are revoked under paragraph (e) below;

(c) if the Secretary of State determines under paragraph (a) above that the publication of the application or the publication or communication of that information would be prejudicial to national security or the safety of the public, he shall (unless a notice under paragraph (d) below has previously been given by the Secretary of State to the comptroller) reconsider that question during the period of nine months from the date of filing the application and at least once in every subsequent period of twelve months;

(d) if on consideration of an application at any time it appears to the Secretary of State that the publication of the application or the publication or communication of the information contained in it would not, or would no longer, be prejudicial to national security or the safety of the public, he shall give notice to the comptroller to that effect; and

(e) on receipt of such a notice the comptroller shall revoke the directions and may, subject to such conditions (if any) as he thinks fit, extend the time for doing anything required or authorised to be done by or under this Act in connection with the application, whether or not that time has previously expired.

(6) The Secretary of State may do the following for the purpose of enabling him to decide the question referred to in subsection (5)(c) above –

(a) where the application contains information relating to the production or use of atomic energy or research into matters connected with such production or use, he may at any time do one or both of the following, that is to say,

(i) inspect the application and any documents sent to the comptroller in connection with it;

(ii) authorise a government body with responsibility for the production of atomic energy or for research into matters connected with its production or use, or a person appointed by such a government body, to inspect the application and any documents sent to the comptroller in connection with it; and

(b) in any other case, he may at any time after (or, with the applicant's consent, before) the end of the period prescribed for the purposes of section 16 above inspect the application and any such documents;

and where a government body or a person appointed by a government body carries out an inspection which the body or person is authorised to carry out under paragraph (a) above, the body or (as the case may be) the person shall report on the inspection to the Secretary of State as soon as practicable.

(7) Where directions have been given under this section in respect of an application for a patent for an invention and, before the directions are revoked, that prescribed period expires and the application is brought in order for the grant of a patent, then -

(a) if while the directions are in force the invention is worked by (or with the written authorisation of or to the order of) a government department, the provisions of sections 55 to 59 below shall apply as if -

(i) the working were use made by section 55;

(ii) the application had been published at the end of that period; and

(iii) a patent had been granted for the invention at the time the application is brought in order for the grant of a patent (taking the terms of the patent to be those of the application as it stood at the time it was so brought in order); and

(b) if it appears to the Secretary of State that the applicant for the patent has suffered hardship by reason of the continuance in force of the directions, the Secretary of State may, with the consent of the Treasury, make such payment (if any) by way of compensation to the applicant as appears to the Secretary of State and the Treasury to be reasonable having regard to the inventive merit and utility of the invention, the purpose for which it is designed and any other relevant circumstances.

(8) Where a patent is granted in pursuance of an application in respect of which directions have been given under this section, no renewal fees shall be payable in respect of any period during which those directions were in force.

(9) A person who fails to comply with any direction under this section shall be liable -

(a) on summary conviction, to a fine not exceeding £1,0001

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

Restrictions on applications abroad by United Kingdom residents

23.-(1) Subject to the following provisions of this section, no person resident in the United Kingdom shall, without written authority granted by the comptroller, file or cause to be filed outside the United Kingdom an application for a patent for an invention if subsection (1A) below applies to that application, unless -

(a) an application for a patent for the same invention has been filed in the Patent Office (whether before, on or after the appointed day) not less than six weeks before the application outside the United Kingdom; and

(b) either no directions have been given under section 22 above in relation to the application in the United Kingdom or all such directions have been revoked.

(1A) This subsection applies to an application if -

(a) the application contains information which relates to military technology or for any other reason publication of the information might be prejudicial to national security; or

(b) the application contains information the publication of which might be prejudicial to the safety of the public.

(2) Subsection (1) above does not apply to an application for a patent for an invention for which an application for a patent has first been filed (whether before or after the appointed day) in a country outside the United Kingdom by a person resident outside the United Kingdom.

(3) A person who files or causes to be filed an application for the grant of a patent in contravention of this section shall be liable –

(a) on summary conviction, to a fine not exceeding £1,000; or

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

(3A) A person is liable under subsection (3) above only if –

(a) he knows that filing the application, or causing it to be filed, would contravene this section; or

(b) he is reckless as to whether filing this application, or causing it to be filed, would contravene this section.

(4) In this section –

(a) any reference to an application for a patent includes a reference to an application for other protection for an invention;

(b) any reference to either kind of application is a reference to an application under this Act, under the law of any country other than the United Kingdom or under any treaty or international convention to which the United Kingdom is a party.

UNITED REPUBLIC OF TANZANIA:

No explicit provision of law on security measures related to patents in the Patents (Registration) Act, Chapter 217 of 1995

UNITED STATES OF AMERICA: *Sections from 181 to 188 of the U.S.C. 35 of 01/01/1953 (Consolidated Patent Laws as of May 2014) and Sections 151 and 152 of the Nuclear Regulatory Legislation of 2013*

35 U.S.C. 181 Secrecy of certain inventions and withholding of patent.

Whenever publication or disclosure by the publication of an application or by the grant of a patent on an invention in which the Government has a property interest might, in the opinion of the head of the interested Government agency, be detrimental to the national security, the Commissioner of Patents upon being so notified shall order that the invention be kept secret and shall withhold the publication of an application or the grant of a patent therefor under the conditions set forth hereinafter.

Whenever the publication or disclosure of an invention by the publication of an application or by the granting of a patent, in which the Government does not have a property interest, might, in the opinion of the Commissioner of Patents, be detrimental to the national security, he shall make the application for patent in which such invention is disclosed available for inspection to the Atomic Energy Commission, the Secretary of Defense, and the chief officer of any other department or agency of the Government designated by the President as a defense agency of the United States.

Each individual to whom the application is disclosed shall sign a dated acknowledgment thereof, which acknowledgment shall be entered in the file of the application. If, in the opinion of the Atomic Energy Commission, the Secretary of a Defense Department, or the chief officer of another department or agency so designated, the publication or disclosure of the invention by the publication of an application or by the granting of a patent therefor would be detrimental to the national security, the Atomic Energy Commission, the Secretary of a Defense Department, or such other chief officer shall notify the Commissioner of Patents and the Commissioner of Patents shall order that the invention be kept secret and shall withhold the publication of the application or the grant of a patent for such period as the national interest requires, and notify the applicant thereof. Upon proper showing by the head of the department or agency who caused the secrecy order to be issued that the examination of the application might jeopardize the national interest, the Commissioner of Patents shall thereupon maintain the application in a sealed condition and notify the applicant thereof. The owner of an application which has been placed under a secrecy order shall have a right to appeal from the order to the Secretary of Commerce under rules prescribed by him.

An invention shall not be ordered kept secret and the publication of an application or the grant of a patent withheld for a period of more than one year. The Commissioner of Patents shall renew the order at the end thereof, or at the end of any renewal period, for additional periods of one year upon notification by the head of the department or the chief officer of the agency who caused the order to be issued that an affirmative determination has been made that the national interest continues to so require. An order in effect, or issued, during a time when the United States is at war, shall remain in effect for the duration of hostilities and one year following cessation of hostilities. An order in effect, or issued, during a national emergency declared by the President shall remain in effect for the duration of the national emergency and six months thereafter. The Commissioner of Patents may rescind any order upon notification by the heads of the departments and the chief officers of the agencies who caused the order to be issued that the publication or disclosure of the invention is no longer deemed detrimental to the national security.

35 U.S.C. 182 Abandonment of invention for unauthorized disclosure.

The invention disclosed in an application for patent subject to an order made pursuant to section 181 may be held abandoned upon its being established by the Commissioner of Patents that in violation of said order the invention has been published or disclosed or that an application for a patent therefor has been filed in a foreign country by the inventor, his successors, assigns, or legal representatives, or anyone in privity with him or them, without the consent of the Commissioner of Patents. The abandonment shall be held to have occurred as of the time of violation. The consent of the Commissioner of Patents shall not be given without the concurrence of the heads of the departments and the chief officers of the agencies who caused the order to be issued. A holding of abandonment shall constitute forfeiture by the applicant, his successors, assigns, or legal representatives, or anyone in privity with him or them, of all claims against the United States based upon such invention.

35 U.S.C. 183 Right to compensation.

An applicant, his successors, assigns, or legal representatives, whose patent is withheld as herein provided, shall have the right, beginning at the date the applicant is notified that, except for such order, his application is otherwise in condition for allowance, or February 1, 1952, whichever is later, and ending six years after a patent is issued thereon, to apply to the

head of any department or agency who caused the order to be issued for compensation for the damage caused by the order of secrecy and/or for the use of the invention by the Government, resulting from his disclosure. The right to compensation for use shall begin on the date of the first use of the invention by the Government. The head of the department or agency is authorized, upon the presentation of a claim, to enter into an agreement with the applicant, his successors, assigns, or legal representatives, in full settlement for the damage and/or use. This settlement agreement shall be conclusive for all purposes notwithstanding any other provision of law to the contrary. If full settlement of the claim cannot be effected, the head of the department or agency may award and pay to such applicant, his successors, assigns, or legal representatives, a sum not exceeding 75 per centum of the sum which the head of the department or agency considers just compensation for the damage and/or use. A claimant may bring suit against the United States in the United States Court of Federal Claims or in the District Court of the United States for the district in which such claimant is a resident for an amount which when added to the award shall constitute just compensation for the damage and/or use of the invention by the Government. The owner of any patent issued upon an application that was subject to a secrecy order issued pursuant to section 181, who did not apply for compensation as above provided, shall have the right, after the date of issuance of such patent, to bring suit in the United States Court of Federal Claims for just compensation for the damage caused by reason of the order of secrecy and/or use by the Government of the invention resulting from his disclosure. The right to compensation for use shall begin on the date of the first use of the invention by the Government. In a suit under the provisions of this section the United States may avail itself of all defenses it may plead in an action under section 1498 of title 28. This section shall not confer a right of action on anyone or his successors, assigns, or legal representatives who, while in the full-time employment or service of the United States, discovered, invented, or developed the invention on which the claim is based.

(a)

FILING IN FOREIGN COUNTRY.—Except when authorized by a license obtained from the Commissioner of Patents a person shall not file or cause or authorize to be filed in any foreign country prior to six months after filing in the United States an application for patent or for the registration of a utility model, industrial design, or model in respect of an invention made in this country. A license shall not be granted with respect to an invention subject to an order issued by the Commissioner of Patents pursuant to section 181 without the concurrence of the head of the departments and the chief officers of the agencies who caused the order to be issued. The license may be granted retroactively where an application has been filed abroad through error and the application does not disclose an invention within the scope of section 181.

(b)

APPLICATION.—The term “application” when used in this chapter includes applications and any modifications, amendments, or supplements thereto, or divisions thereof.

(c)

SUBSEQUENT MODIFICATIONS, AMENDMENTS, AND SUPPLEMENTS.—The scope of a license shall permit subsequent modifications, amendments, and supplements containing additional subject matter if the application upon which the request for the license is based is not, or was not, required to be made available for inspection under section 181 and if such modifications, amendments, and supplements do not change the general nature of the invention in a manner which would require such application to be made available for inspection under such section 181. In any case in which a license is not, or was not, required in order to file an application in any foreign country, such subsequent modifications, amendments, and supplements may be made, without a license, to the application filed in the foreign country if the United States application was not required to be made available for inspection under section 181 and if such modifications, amendments, and supplements do not, or did not, change the general nature of the invention in a manner which would require

the United States application to have been made available for inspection under such section 181.

35 U.S.C. 184 (pre-AIA) Filing of application in foreign country.

[Editor Note: Not applicable to proceedings commenced on or after September 16, 2012. See 35 U.S.C. 184 for the law otherwise applicable.]

Except when authorized by a license obtained from the Commissioner of Patents a person shall not file or cause or authorize to be filed in any foreign country prior to six months after filing in the United States an application for patent or for the registration of a utility model, industrial design, or model in respect of an invention made in this country. A license shall not be granted with respect to an invention subject to an order issued by the Commissioner of Patents pursuant to section 181 of this title without the concurrence of the head of the departments and the chief officers of the agencies who caused the order to be issued. The license may be granted retroactively where an application has been filed abroad through error and without deceptive intent and the application does not disclose an invention within the scope of section 181 of this title.

The term "application" when used in this chapter includes applications and any modifications, amendments, or supplements thereto, or divisions thereof.

The scope of a license shall permit subsequent modifications, amendments, and supplements containing additional subject matter if the application upon which the request for the license is based is not, or was not, required to be made available for inspection under section 181 of this title and if such modifications, amendments, and supplements do not change the general nature of the invention in a manner which would require such application to be made available for inspection under such section 181. In any case in which a license is not, or was not, required in order to file an application in any foreign country, such subsequent modifications, amendments, and supplements may be made, without a license, to the application filed in the foreign country if the United States application was not required to be made available for inspection under section 181 and if such modifications, amendments, and supplements do not, or did not, change the general nature of the invention in a manner which would require the United States application to have been made available for inspection under such section 181.

35 U.S.C. 185 Patent barred for filing without license.

[Editor Note: Applicable to proceedings commenced on or after Sept. 16, 2012. See 35 U.S.C. 185 (pre-AIA) for the law otherwise applicable.]

Notwithstanding any other provisions of law any person, and his successors, assigns, or legal representatives, shall not receive a United States patent for an invention if that person, or his successors, assigns, or legal representatives shall, without procuring the license prescribed in section 184, have made, or consented to or assisted another's making, application in a foreign country for a patent or for the registration of a utility model, industrial design, or model in respect of the invention. A United States patent issued to such person, his successors, assigns, or legal representatives shall be invalid, unless the failure to procure such license was through error, and the patent does not disclose subject matter within the scope of section 181.

35 U.S.C. 185 (pre-AIA) Patent barred for filing without license.

[Editor Note: Not applicable to proceedings commenced on or after September 16, 2012. See 35 U.S.C. 185 for the law otherwise applicable.]

Notwithstanding any other provisions of law any person, and his successors, assigns, or legal representatives, shall not receive a United States patent for an invention if that person, or his successors, assigns, or legal representatives shall, without procuring the license prescribed in section 184 of this title, have made, or consented to or assisted another's making, application in a foreign country for a patent or for the registration of a utility model, industrial design, or model in respect of the invention. A United States patent issued to such

person, his successors, assigns, or legal representatives shall be invalid, unless the failure to procure such license was through error and without deceptive intent, and the patent does not disclose subject matter within the scope of section 181 of this title.

35 U.S.C. 186 Penalty.

Whoever, during the period or periods of time an invention has been ordered to be kept secret and the grant of a patent thereon withheld pursuant to section 181, shall, with knowledge of such order and without due authorization, willfully publish or disclose or authorize or cause to be published or disclosed the invention, or material information with respect thereto, or whoever willfully, in violation of the provisions of section 184, shall file or cause or authorize to be filed in any foreign country an application for patent or for the registration of a utility model, industrial design, or model in respect of any invention made in the United States, shall, upon conviction, be fined not more than \$10,000 or imprisoned for not more than two years, or both.

35 U.S.C. 187 Nonapplicability to certain persons.

The prohibitions and penalties of this chapter shall not apply to any officer or agent of the United States acting within the scope of his authority, nor to any person acting upon his written instructions or permission.

35 U.S.C. 188 Rules and regulations, delegation of power.

The Atomic Energy Commission, the Secretary of a defense department, the chief officer of any other department or agency of the Government designated by the President as a defense agency of the United States, and the Secretary of Commerce, may separately issue rules and regulations to enable the respective department or agency to carry out the provisions of this chapter, and may delegate any power conferred by this chapter.

Nuclear Regulatory Legislation

Sec. 151. Inventions Relating to Atomic Weapons, and Filing of Reports

a. No patent shall hereafter be granted for any invention or discovery which is useful solely in the utilization of special nuclear material or atomic energy in an atomic weapon. Any patent granted for any such invention or discovery is hereby revoked, and just compensation shall be made therefor.

b. No patent hereafter granted shall confer any rights with respect to any invention or discovery to the extent that such invention or discovery is used in the utilization of special nuclear material or atomic energy in atomic weapons. Any rights conferred by any patent heretofore granted for any invention or discovery are hereby revoked to the extent that such invention or discovery is so used, and just compensation shall be made therefor.

c. Any person who has made or hereafter makes any invention or discovery useful in the production or utilization of special nuclear material or atomic energy, shall file with the Commission a report containing a complete description thereof unless such invention or discovery is described in an application for a patent filed with the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office by such person within the time required for the filing of such report. The report covering any such invention or discovery shall be filed on or before the one hundred and eightieth day after such person first discovers or first has reason to believe that such invention or discovery is useful in such production or utilization.

"d. The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office shall notify the Commission of all applications for patents heretofore or hereafter filed which, in his opinion, disclose inventions or discoveries

required to be reported under subsection 151c., and shall provide the Commission access to all such applications.

“e. Reports filed pursuant to subsection c. of this section, and application to which access is provided under subsection d. of this section, shall be kept in confidence by the Commission, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commission.

Sec. 152. Inventions Made or Conceived During Commission Contracts

Any invention or discovery, useful in the production or utilization of special nuclear material or atomic energy, made or conceived in the course of or under any contract, subcontract, or arrangement entered into with or for the benefit of the Commission, regardless of whether the contract, subcontract, or arrangement involved the expenditure of funds by the Commission, shall be vested in, and be the property of, the Commission, except that the Commission may waive its claim to any such invention or discovery under such circumstances as the Commission may deem appropriate, consistent with the policy of this section. No patent for any invention or discovery, useful in the production or utilization of special nuclear material or atomic energy, shall be issued unless the applicant files with the application, or within thirty days after request therefor by the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (unless the Commission advises the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office that its rights have been determined and that accordingly no statement is necessary) a statement under oath setting forth the full facts surrounding the making or conception of the invention or discovery described in the application and whether the invention or discovery was made or conceived in the course of or under any contract, subcontract, or arrangement entered into with or for the benefit of the Commission, regardless of whether the contract, subcontract, or arrangement involved the expenditure of funds by the Commission. The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office shall as soon as the application is otherwise in condition for allowance¹⁹³ forward copies of the application and the statement to the Commission.

The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office may proceed with the application and issue the patent to the applicant (if the invention or discovery is otherwise patentable) unless the Commission, within 90 days after receipt of copies of the application and statement, directs the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office to issue the patents to the Commission (if the invention or discovery is otherwise patentable) to be held by the Commission as the agent of and on behalf of the United States.

If the Commission files such a direction with the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, and if the applicant's statement claims, and the applicant still believes, that the invention or discovery was not made or conceived in the course of or under any contract, subcontract or arrangement entered into with or for the benefit of the Commission entitling the Commission to the title to the applicant or the patent the applicant may, within 30 days after notification of the filing of such a direction, request a hearing before the Board of Patent Appeals and Interferences. The Board shall have the power to hear and determine whether the Commission was entitled to the direction filed with the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office. The Board shall follow the rules and procedures established for interference cases and an appeal may be taken by either the applicant or the Commission from the final order of the Board to the United States Court of Appeals for the Federal Circuit in accordance with the procedures governing the appeals from the Board of Patent Appeals and Interferences.

If the statement filed by the applicant should thereafter be found to contain false material statements any notification by the Commission that it has no objections to the issuance of a patent to the applicant shall not be deemed in any respect to constitute a waiver of the provisions of this section or of any applicable civil or criminal statute, and the Commission may have the title to the patent transferred to the Commission on the records of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office in accordance with the provisions of this section. A determination of rights by the Commission pursuant to a contractual provision or other arrangement prior to the request of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office for the statement, shall be final in the absence of false material statements or nondisclosure of material facts by the applicant.

URUGUAY:

No explicit provision of law on security measures related to patents in the Law No. 17.164 of 02/09/1999 Regulating Rights and Obligations Relating to Patents, Utility Models and Industrial Designs

VANUATU: *Section 15 of the Patents Act No. 2 of 2003*

INFORMATION PREJUDICIAL TO DEFENCE OF VANUATU OR SAFETY OF PUBLIC

15. If it appears to the Registrar that an application filed with the Registrar contains information that might be prejudicial to:

- (a) the defence of Vanuatu; or
- (b) the safety of the public;

the Registrar may prohibit or restrict the publication of that information.

VIET NAM: *Article 7(3) of the Law No. 50/2005/QH11 of 29/11/2005, on Intellectual Property as last amended by Law No. 36/2009/QH12 of 19/06/2009 and Articles 23a to 23c of the Government's Decree No. 103/2006/ND-CP of 22/09/2006, detailing and guiding a Number of Articles of the Law on Intellectual Property regarding Industrial Property as last amended by Decree No. 122/2010/ND-CP*

Article 7. Limitations on intellectual property rights

3. In the circumstances where the achievement of defense, security, people's livelihood objectives and other interests of the State and society specified in this Law needs to be guaranteed, the State may prohibit or restrict the exercise of intellectual property rights by the holders or compel the licensing by the holders of one or several of their rights to other organizations or individuals under appropriate terms. The limitation on rights to inventions classified as state secrets complies with regulations of the Government.

Decree No. 103/2006/ND-CP of 22/09/2006

Chapter IIIa. CONFIDENTIAL INVENTIONS

Article 23a. Confidential inventions; protection titles of confidential invention; contents of and limitations on rights to confidential inventions

1. Inventions that are classified by competent state agencies as state secrets in the field of national defense and security under laws and regulations on protection of state secrets are referred to as confidential inventions.
2. Confidential inventions shall only be granted confidential invention patents or confidential utility solution patents.
3. Confidential invention applications, confidential invention patents and confidential utility solution patents may not be disclosed and must be kept confidential under laws and regulations on protection of state secrets.
4. The utilization and licensing of confidential inventions and the assignment of the right to file applications and the right to own confidential inventions must be permitted by competent state agencies under laws and regulations on protection of state secrets.
5. The Minister of Public Security and the Minister of National Defense may utilize or assign organizations or individuals to utilize confidential inventions for the national defense or security purposes under Articles 145.146 and 147 of Law on intellectual Property.
6. After a confidential invention is disclosed by a competent agency under laws and regulations on protection of state secrets, its application and protection title shall be handled as follows:
 - a. The confidential invention application shall be further processed like a normal invention application;
 - b. The confidential invention patent or confidential utility solution patent shall be converted into a normal invention patent or utility solution patent, and published in the Industrial Property Official Gazette, as well as recorded in the National Register of Inventions.

Article 23b. Security control of inventions before filing for protection overseas

1. Vietnamese organizations and individuals shall only register their confidential inventions in countries in which laws and regulations on protection of confidential inventions are available and shall seek permission from competent agencies in accordance with Clause 2, Article 23c of this Decree.
2. Inventions of Vietnamese organizations and individuals and inventions created in Vietnam shall not be protected by Viet Nam if the applications of those inventions thereof have been filed for industrial property protection overseas in contravention of the following provisions on security control:
 - a. Applications for industrial property protection shall only be filed overseas when patent applications have been filed in Vietnam and the time limit of 6 months from the filing date has expired, except cases specified at Point b of this Clause;
 - b. The filing of applications for industrial property protection overseas is not allowed if inventions are classified confidential under laws and regulations on protection of state secrets and is communicated by competent agencies about that.

Article 23c. Identification and disclosure of confidential inventions; establishment and transfer of rights to confidential inventions

1. The identification and disclosure of confidential inventions shall be conducted by the Ministry of National Defense and the Ministry of Public Security under laws and regulations on protection of state secrets.
2. The Ministry of Public Security shall assume the prime responsibility for and coordinate with the Ministry of National Defense and the Ministry of Science and Technology in specifying procedures for identification and disclosure of confidential inventions; protection of confidential inventions; procedures for examination of applications and grant of confidential invention protection titles; management of utilization, licensing of confidential inventions, and overseas registration of industrial property protection of confidential inventions in accordance with laws and regulations on protection of state secrets and laws and regulations on intellectual property.

YEMEN:

No explicit provision of law on security measures related to patents in the Law No. 2 of 2011 on Patents, Utility Models, Layout Designs of Integrated Circuits and Undisclosed Information

ZAMBIA: *Section 24 of the Patents Act (Chapter 400) of 1957 as last amended on 28/12/1987*

Provisions for secrecy of certain inventions

24. (1) In this section the expression "competent authority" means the Minister designated as a competent authority by the President in the Gazette.

(2) Where, before or after the commencement of this Act, an application for a patent has been made in respect of an invention, and it appears to the Registrar that the invention is one of a class notified to him by a competent authority as relevant for defence purposes, he may give directions for prohibiting or restricting the publication of information with respect to the invention, or the communication of such information to any person or class of persons specified in the directions, and while such directions are in force the application may, subject to the directions, proceed up to the acceptance of the complete specification, but the acceptance shall not be advertised nor the specification published, and no patent shall be granted in pursuance of the application.

(3) Where the Registrar gives any such directions as aforesaid, he shall give notice of the application and of the directions to the competent authority, and thereupon the following provisions shall have effect, that is to say:

(a) the competent authority shall, upon receipt of such notice, consider whether the publication of the invention would be prejudicial to the defence of the Republic and unless a notice under paragraph (c) has previously been given by that authority to the Registrar, shall reconsider that question before the expiration of nine months from the date of lodging of the application for the patent and at least once in every subsequent year;

(b) for the purpose aforesaid, the competent authority may, at any time after the complete specification has been accepted or, with the consent of the applicant, at any time before the complete specification has been accepted, inspect the application and any documents furnished to the Registrar in connection therewith;

(c) if upon consideration of the invention at any time it appears to the competent authority that the publication of the invention would not, or would no longer, be prejudicial to the defence of the Republic, that authority shall give notice to the Registrar to that effect;

(d) on the receipt of any such notice the Registrar shall revoke the directions and may, subject to such conditions, if any, as he thinks fit, extend the time for doing anything required or authorised to be done by or under this Act in connection with the application, whether or not that time has previously expired.

(4) When directions have been given under this section, if any use of the invention is made during the continuance in force of such directions by or on behalf of or to the order of a Government department, the provisions of section forty shall apply in relation to that use as if a patent had been granted for the invention.

(5) If an applicant for a patent has suffered loss or damage by reason of his invention having been kept secret in pursuance of a direction under subsection (2), the Minister, with the consent of the Minister responsible for finance, shall pay to him such reasonable compensation as is agreed upon, or, in default of agreement, as may be determined by the High Court on a reference under subsection (l) of section forty-two.

(6) Where a patent is granted in pursuance of an application in respect of which directions have been given under this section, no renewal fees shall be payable in respect of any period during which those directions were in force.

(7) If any person fails to comply with any direction given under this section, he shall be guilty of an offence.

ZIMBABWE: *Section 20 of the Patents Act, Chapter 26:03 of 01/02/1972, as last amended by Act No. 14/2002*

20 Provisions for secrecy of certain inventions

(1) Where, before or after the appointed day, an application for a patent has been made in respect of an invention and it appears to the Registrar that the invention is one of a class notified to him by the competent authority as relevant for defence purposes, he may give directions for prohibiting or restricting the publication of information with respect to the invention or the communication of such information to any person or class of persons specified in the directions, and while such directions are in force the application may, subject to the directions, proceed up to the acceptance of the complete specification but the acceptance shall not be advertised nor the specification published, and no patent shall be granted in pursuance of the application.

(2) Where the Registrar gives any directions in terms of subsection (1), he shall give notice of the application and of the directions to the competent authority and thereupon the following provisions shall have effect, that is to say—

(a) the competent authority shall, upon receipt of such notice, consider whether the publication of the invention would be prejudicial to the defence of Zimbabwe and, unless a notice under paragraph (c) has previously been given by the competent authority to the Registrar, shall reconsider that question before the expiration of nine months from the date of lodging of the application for the patent and at least once in every subsequent year;

(b) for the purposes of paragraph (a), the competent authority may, at any time after the complete specification has been accepted or, with the consent of the applicant, at any time before the complete specification has been accepted, inspect the application and any documents furnished to the Registrar in connection therewith;

(c) if, upon consideration of the invention, at any time it appears to the competent authority that the publication of the invention would not, or would no longer, be prejudicial to the defence of Zimbabwe, the competent authority shall give notice to the Registrar to that effect;

(d) on the receipt of any notice in terms of paragraph (c), the Registrar shall revoke the directions and may, subject to such conditions, if any, as he thinks fit, extend the time for doing anything required or authorized to be done by or under this Act in connection with the application, whether or not that time has previously expired.

(3) When directions have been given in terms of subsection (1), if any use of the invention is made during the continuance in force of such directions by or on behalf of or to the order of a department of the State, section thirty-four shall apply in relation to that use as if a patent had been granted for the invention.

(4) If an applicant for a patent has suffered loss or damage by reason of his invention having been kept secret in pursuance of directions in terms of subsection (1), the Minister, with the consent of the Minister responsible for Finance, shall pay to him such reasonable compensation as is agreed upon or, in default of agreement, as may be determined by the Tribunal on a reference under subsection (1) of section thirty-six.

(5) Where a patent is granted in pursuance of an application in respect of which directions have been given in terms of subsection (1), no renewal fees shall be payable in respect of any period during which those directions were in force.

(6) If any person fails to comply with any direction given under this section he shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(7) In this section—
“competent authority” means the Minister responsible for defence or any other Minister whom the President, by statutory instrument, designates as being the competent authority for the purposes of this section.

[Annex II follows]

(I) PROVISIONS OF LAW ON CRIMINAL SANCTIONS FOR PATENT INFRINGEMENT

Country	Provision of Law	No	Yes						
			Requisites		Type of sanction				
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)	
Algeria	Articles 61 and 62 of the Ordonnance n° 03-07 du 19 Jomada El Oula 1424 correspondant au 19 juillet 2003 relative aux brevets d'invention		X			6 months to 2 years	(2.500.000 DA) dinars à dix millions (10.000.000 DA)		
Andorra	Article 35 of the Law on Patents of 10/06/1999							Not specified the type of sanction	
Angola	Article 68 of the Law No. 3/92 on Industrial Property of 28/02/1992					Up to 6 months	Between New Kwanza (NKz) 20,000.00 and NKz 100,000.00		
Antigua and Barbuda	Section 34 of the Patents Act, Act No. 23 of 2003		X			3 years	\$100,000		

Country	Provision of Law	No	Yes						
			Requisites		Type of sanction				
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)	
Argentina	Articles 75 to 80 of the Law on Patents and Utility Models (Consolidated Text of Law No. 24.481 of March 30, 1995, as last amended by Law No. 25.859/2003)		X						X
Armenia	Article 159 of the Criminal Code of Armenia					From 200 to 400 times minimum salary	Up to 2 years		
Australia		X							
Austria	§ 159 of the Patents Act 1970 (as last amended by Federal Law Gazette (BGBl) I No. 135/2009)		X	X (for the application of imprisonment)	Up to 2 years	Up to 360 times the daily fine			
Azerbaijan		X							

Country	Provision of Law	No	Yes						
			Requisites		Type of sanction				
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)	
Bahamas		X							
Bahrain	Article 41 of the Law No. 1 of 2004 on Patents and Utility Models as last amended by Law 14 of 2006		X		3 months- 1 year	500-2000 Dinars	Publication of the verdict	X	
Barbados	Sections 62 and 63 of the Patents Act No. 18 of 26/07/2001		X		2 years	\$50.000		X	
Belarus	Articles 33 and 201 of the Penal Code of the Republic of Belarus No. 275-Z of 09/07/1999 (as last amended on 12/07/2013)		X	X	Up to 2 years or up to 5 years according to the gravity	X			

Country	Provision of Law	No	Yes						
			Requisites		Type of sanction				
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)	
Belgium	Article 8, ° 1 (2) and ° 2 (2) of the Law on the Punishment of Counterfeiting and Piracy of Intellectual Property Rights of 05/05/2007 as last amended on 25/02/2011		X			3 months-3 years	100-100.000€		
Belize	Article 63 (1), (7), (11) and (12) of the Patents Act - Cap. 253 of 21/06/2000 as last amended by the Act No. 40 of 2005		X			5-12 years	15.000-40.000\$		
Benin		X							

Country	Provision of Law	No	Yes					
			Requisites		Type of sanction			
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)
Bhutan	Section 41 (3) of the Industrial Property Act of 13/07/2001				X	Up to Nu. 1.000.000		
Bolivia		X						
Bosnia and Herzegovina		X						
Botswana	Section 134 (6) and (7) of the Industrial Property Act (Act No. 8 of 2010)		X		6 months- 2 years	P 2.000- P5.000		
Brazil	Articles 183 to 186 of the of the Industrial Property Law No. 9.279 of 14/05/1996, as last amended by Law No. 10.196 of 14/02/2001				3 months-1 year 1-3 months (according to the typology of conduct)	X		

Country	Provision of Law	No	Yes					
			Requisites		Type of sanction			
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)
Brunei Darussalam		X						
Bulgaria		X						
Burundi		X						
Cabo Verde	Article 267 (a), 268 (1), 269 and 275 to 279 of the Industrial Property Code (Decree-Law No. 4/2007 of 20/08/2007)				Up to 3 years	Up to 360 days		
Cambodia	Articles 133 and 134 of the Law on Patents, Utility Models and Industrial Designs of 22/01/2003				1-5 years	5,000,000-20,000,000 Riels		X
Canada		X						

Country	Provision of Law	No	Yes						
			Requisites		Type of sanction				
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)	
Central African Republic		X							
Chile		X							
China		X							
Colombia	Article 306 of the Criminal Code as last amended on 22/06/2006		X		4-8 years	26.6 to 1.500 minimum monthly legal salaries in force			
Comoros	Articles from 40 to 44 of the Patents Law of 05/07/1844		X (for certain conducts)			12.000-240.000F	1-6 months (in case of recidive)	X	
Costa Rica		X							
Côte d'Ivoire		X							

Country	Provision of Law	No	Yes					
			Requisites		Type of sanction			
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)
Croatia	Article 97 of the Patents Act of 15/10/2003 as last amended by OG No. 76/2013					HRK 20.000-100.000 Or HKR 2.000-10.000 According to which kind of person commit the misdemeanor	seizure and destruction of articles intended or used for the commitment of the misdemeanor	X
Cuba	Article 227 (e) of the Criminal Code, Law No. 62 of 29/12/1987, as last amended on 16/02/1999				6 months-2 years	300-1000 cuotas		
Cyprus		X						
Czech Republic	Provision 151 of the Criminal Code, Act 40/2009				Up to 1 year		X	

Country	Provision of Law	No	Yes					
			Requisites		Type of sanction			
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)
Democratic Republic of Congo	Articles 88, 93 and 94 of the Law No. 82-001 of January 7, 1982 on Industrial Property		X		1-6 months	X		X
Democratic Republic of Korea	Article 42 of the Invention Law of 13/05/1998 as last amended by Decree No. 597 of 11/03/1999		Not specified	Not specified	Not specified	Not specified	Not specified	Not specified
Denmark	Article 57 of the Consolidated Patents Act, Act No. 108 of 24/01/2012		X (or grossly negligently)		Up to 1 year and 6 months (if aggravating circumstances or intentional infringement)	X		X
Djibouti	Articles 200 to 204 of the Law No. 50/AN/09/6th L on the Protection of Industrial Property of 21/06/2009		X		X	X		X

Country	Provision of Law	No	Yes					
			Requisites		Type of sanction			
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)
Dominica		X						
Dominican Republic		X						
Ecuador	Articles 319 (a) and (b), 327, 328 and 329 of the Intellectual Property Law (Consolidation No. 2006-13)				3 months- 3 years	1.314,45-13.144,50\$		X
Egypt	Article 32 of the Law No. 82 of 2002 on the Protection of Intellectual Property Rights				Up to 2 years (only in case of recidivism)	20.000-100.000 pounds		X
El Salvador		X						
Equatorial Guinea	Article 534 of the Criminal Code of 03/04/1980		X		X (in case of recidivism)	10.000-100.000 pesetas		X

Country	Provision of Law	No	Yes					
			Requisites		Type of sanction			
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)
Estonia		X						
Ethiopia		X						
Finland	Article 57 of the Patents Act, Act No. 550 of 15/12/1967 as last amended by Act No. 101/2013		X			X		
France	Articles L615-14, L615-14-1, L615-14-2 and L615-14-3 of the Intellectual Property Code (consolidated as of January 1, 2014)		X		3 years	300.000€		X

Country	Provision of Law	No	Yes					
			Requisites		Type of sanction			
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)
Gambia	Article 43 (1) and (3) of the Industrial Property Act of 1989 as last amended on 02/04/2007				6 months	Up to 5.000 dalasis		
Georgia		X						
Germany	Section 142 of the Patent Law as amended on 31/07/2009			X (aggravating circumstance)	Up to 3 years	X	confiscation	X
Ghana	Section 37 of the Patent Act, Act No. 657 of 2003				Up to 2 years	2.000 penalty units		
Greece		X						
Guatemala	Articles 206 to 208 of the Industrial Property Law, Decree No. 57-				1-2 years	1.000-500.000 quetzales		

Country	Provision of Law	No	Yes						
			Requisites		Type of sanction				
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)	
	2000 of 18/09/2000 and Article 275 (k) of the Criminal Code								
Guinea Bissau	Article 41 of the Industrial Property Code, Decree No. 6/96 of 03/03/1996				Up to 1 year	X			
Haiti	Articles 23 to 26 of the Law on Patents of Inventions and Industrial Designs of 14/12/1922 as last amended in 1924					20-1.000 dollars			
Honduras		X							
Hungary	Section 329 D of the Criminal Code, Act No. IV of 1978				Up to 2 years	X	Community work	X	

Country	Provision of Law	No	Yes					
			Requisites		Type of sanction			
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)
Iceland	Article 57 of the Patents Act No. 17/1991 as last amended by Act No. 126/2011		X		Up to three months (under aggravating circumstances)	X		X
India		X						
Indonesia	Articles 130 to 135 of the Patents Law No. 14 of 01/08/2001		X		Up to 4 years	Up to 250.000.000 rupiahs		
Iran	Article 61 (1) of the Patent, Industrial Design and Trademark Registration Act of 29/10/2007		X		91 days-6 months	10.000.000 – 50.000.000 Rial		
Ireland		X						
Israel		X						

Country	Provision of Law	No	Yes					
			Requisites		Type of sanction			
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)
Kazakhstan	Article 3 and 199 of the Criminal Code of 03/07/2014 N§ 226-V 3PK		X	X	Up to 5 years (3 to 7 years if committed by a criminal group)	X	X (work)	X
Kenya	Article 109 of the Industrial Property Act of 27/07/2001		X		3-5 years	100.000-500.000 shillings		
Kyrgyzstan		X						
Lao's People Democratic Republic	Sections 145 and 157 of the Intellectual Property Law No. 01/NA of 20/12/2011		X	X	Not clear	X	Education, warning, disciplinary action	
Latvia		X						
Lebanon	Article 40 of the Law No. 240/2000 of 2000 on Patents		X		Not specified	Not specified		

Country	Provision of Law	No	Yes					
			Requisites		Type of sanction			
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)
Lesotho	Section 43 of the Industrial Property Order of 1989 (Order No. 5 of 1989, as last amended by Act No. 4 of 1997)				10 years	M10.000		
Liberia	Section 51 (1), (2) and (3) of the Industrial Property Act of 20/03/2003		X		Up to 5 years	From 500.000USD		
Libya	Article 44 of the Law No. 8 of 1959 on Patents and Industrial Designs and Models				X	10-20 pounds		
Lithuania	Article 195 of the Criminal Code, Law No. VIII-1968 of 26/09/2000 as last amended on 02/07/2010				Up to 2 years	X	Arrest	

Country	Provision of Law	No	Yes					
			Requisites		Type of sanction			
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)
Luxembourg		X						
Madagascar	Article 41 of the Ordinance No. 89-019 Establishing Arrangements for the Protection of Industrial Property of 31/07/1989				6 months-3 years	500.000-10.000.000 MGF		X
Malawi		X						
Malaysia		X						
Mali		X						
Malta		X						
Mauritius		X						
Mexico	Articles 213 XI, XII, XII and XIV and 223 I of the Industrial property Law as		X					

Country	Provision of Law	No	Yes						
			Requisites		Type of sanction				
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)	
	last amended on 09/04/2012								
Monaco	Articles 44 to 48 of the Patents Law No. 606 of 20/06/1955						24.000-480.000 F	1-6 months (only in case of recidivism)	X
Mongolia	Article 141 of the Criminal Code of 2002				3-6 months		100 to 250 amounts of minimum salary		
Montenegro	Article 119 of the Law on Patents of 31/10/2008						20 to 200 amounts of minimum salary		
Morocco	Articles 213 to 217 of the Law No. 97-17 on the Protection of Industrial Property of 15/02/2000 as last amended by Law No. 31-05		X		2-6 months		50.000-500.000 dirhams	Destruction fo the infringing goods	X

Country	Provision of Law	No	Yes					
			Requisites		Type of sanction			
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)
Mozambique	Article 175 of the Industrial Property Code, approved by Decree No. 04/2006 of 12/04/2006					89 times the minimum wage		X
Nauru		X						
Nepal	Section 11 of the Patent, Design and Trade Mark Act, 2022 (1965), as last amended on 24/11/2006					Up to 500.000 rupees	confiscation	X
Netherlands	Article 79 of the Patents Act of 15/12/1994 (Text as it applies on: 03/06/2009)		X		Up to 6 months	Fine in the fourth category	Publication of the judgment	X
New Zealand		X						

Country	Provision of Law	No	Yes					
			Requisites		Type of sanction			
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)
Nicaragua	Article 132 (a), (e) and (f) of the Law No. 354 of 21/11/2000, Law on Patents, Utility Models and Industrial Designs as last amended by Law No. 634 of 13/09/2007		X	X	4-6 years	8.000 Central American Pesos		
Nigeria		X						
Norway	Section 57 of the Patents Act No. 9 of 15/12/1967, as amended up to Act No. 8 of 01/07/2010		X		Up to 3 months	X		
Oman	Section 93 of the Royal Decree No. 67/2008 on Industrial Property				3 months-2 years	2.000-10.000 Riyals		X

Country	Provision of Law	No	Yes						
			Requisites		Type of sanction				
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)	
	Rights and their Enforcement for the Sultanate of Oman of 12/05/2008								
Pakistan		X							
Panama	Articles 164 1), 2), 3) and 4) and 165 of the Law No. 35 of May 10, 1996, on Industrial Property as last amended by Law N° 61 of 05/10/2012		X (according to the conduct)			(B/.10,000.00 to B/.200,000.00)	Suspension from the right to engage in commerce or to exploit industrial activities Suspension or cancellation in the operation code or	X	

Country	Provision of Law	No	Yes					
			Requisites		Type of sanction			
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)
							permit Destruction of infringing goods	
Papua New Guinea	Article 61 of the Patents and Industrial Designs Act of 01/07/2000				Not clear	X		
Paraguay		X						
Philippines	Section 84 of the Intellectual Property Code of the Philippines, Republic Act No. 8293 of 06/06/1997 as last amended by Act No. 10372 of 28/02/2013		X (since conduct is punished by penal law if infringement is committed for a second time after a first decision of the judge)		6 months-3 years	100.000-300.000 pesos		

Country	Provision of Law	No	Yes					
			Requisites		Type of sanction			
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)
Portugal	Articles 321 and 341 of the Industrial Property Code (consolidated as of 2008)				Up to 3 years	Up to 360 days		
Qatar	Article 24 of the Decree Law No. 30 for the year 2006 To Issue Patents Law		X		Up to 2 years	Up to 10.000 Qatari Riyals		
Republic of Korea	Articles 225, 230, 231 and 232 of the Patent Act (Act No. 950 of 31/12/1961, as last amended by Act No. No. 11654 of 22/03/2013)				Up to 7 years	Up to 100 million won Up to 500,000 won (in case of negligence)	Seizure of infringing goods	X
Republic of Moldova		X						
Romania	Articles 59 and 60 of the Patent Law No.64/1991 as				6 months-2 years	10.000-30.000 lei		

Country	Provision of Law	No	Yes						
			Requisites		Type of sanction				
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)	
	republished on Official Gazette of Romania, Part I, no. 541/ 8 august 2007								
Russian Federation	Article 147 of the Criminal Code No. 63-FZ of 13/06/1996 as last amended on 01/03/2012				Up to 2 years	Up to 200.000 roubles, one wage salary or any other income of the convicted person for a period of up to 18 months	Obligatory work up to 2080 hours Compulsory work up to 2 years	X	
Rwanda	Articles 261 to 263 of the Law No. 31/2009 of 26/10/2009 on the Protection of Intellectual Property		X	X	Up to 5 years	50.000-500.000 Rwandan Francs	Seizure, confiscation and destruction of infringing items		

Country	Provision of Law	No	Yes						
			Requisites		Type of sanction				
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)	
Saint Kitts and Nevis	Section 62 (1) of the Patents Act (Cap. 18.25) of 31/12/2002		X			5-12 years	15.000-40.000 dollars		
Saint Lucia		X							
Saint Vincent and the Grenadines		X							
Samoa	Article 125 of the Intellectual Property Act of 11/10/2011		X (Or gross negligence)	X		Up to 5 years	1.000 units		
San Marino		X							
Sao Tome and Principe		X							
Saudi Arabia		X							
Senegal		X							

Country	Provision of Law	No	Yes					
			Requisites		Type of sanction			
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)
Serbia	Article 201 (1), (2) and (5) of the Criminal Code of 29/12/2009			X	Up to 3 years		Seizure and destruction of infringing goods	X
Seychelles	Sections 118 (1) and 119 of the Industrial Property Act, Act No. 7 of 2014		X	X	Up to 5 years	Up to SCR 500.000	seizure, forfeiture and destruction of infringing goods and of any materials and implements used in the commission of the offence	

Country	Provision of Law	No	Yes						
			Requisites		Type of sanction				
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)	
Sierra Leone	Section 73 of the Patents and Industrial Design Act, Act No. 10 of 2012		X			Up to 1 year	Up to Le60,000,000.00		
Singapore		X							
Slovakia	Section 282 of the Criminal Code, Act No. 300/2005					up to 3 years			X
Slovenia	Article 234 of the Criminal Code (KZ-1) of 01/09/2008					up to 3 years		Seizure of infringing goods	
South Africa		X							
South Sudan	Section 50 of the Patent Law No. 58 of 1971		X			Up to 1 year	Up to 1.000 Pounds		X
Spain	Article 534 of the Criminal Code		X			X	30.000-600.000 pesetas		

Country	Provision of Law	No	Yes						
			Requisites		Type of sanction				
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)	
Sri Lanka			X			Up to 6 months	Up to 500.000 rupees		
Sudan	Section 50 of the Patent Law No. 58 of 1971		X			Up to 1 year	Up to 1.000 Pounds		
Swaziland	Section 32 (1), (2) and (3) of the Patents, Utility Models and Industrial Designs Act of 04/09/1997					Up to 5 years	Up to 10.000 Emalangeni		
Sweden	Article 57 of the Patents Act (1967:837) as last amended on 01/07/2011		X (or gross negligence)			Up to 2 years			

Country	Provision of Law	No	Yes					
			Requisites		Type of sanction			
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)
Switzerland	Articles from 66 to 71 and 81 of the Patents Law of 25/06/1954, as of 01/01/2012		X		Up to 1 year	X		X
Tajikistan	Article 156 of the Criminal Code of 01/09/ 1998		X	X	Up to 2 years	X		X
Thailand	Section 86 of the Patent Act B.E. 2522 of 11/03/1979 as last amended on 01/01/1999				Up to 2 years	Up to 400.000 bath		
The Former Yugoslav Republic of Macedonia	Article 321 (1) 2) of the Law on Industrial Property of 12/02/2009					EUR 4,000 to 8,000 in denar counter-value		
Timor-Leste		X						

Country	Provision of Law	No	Yes					
			Requisites		Type of sanction			
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)
Tonga	Section 43 (1) and (4) of the Industrial Property Act, Act No. 19 of 1994 as last amended by Act No. 42 of 2002				5 years	T\$5,000		
Trinidad and Tobago		X			1-6 months (in case of recidivism in the infringement)	5.000-50.000 dinars		X
Tunisia	Articles 82 and 83 of the Law No. 2000-84 of 24/08/2000, on Patents							
Turkey		X						
Turkmenistan	Article 153 of the Criminal Code N° 222-I of 12/06/1997 as last		X			15 to 30 average monthly wages	Correctional labor for up to 2 years(if a	

Country	Provision of Law	No	Yes					
			Requisites		Type of sanction			
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)
	amended on 09/11/2013						repeated infringement within one year after the application of an administrative penalty; or committed by a group of persons wilfully)	
Uganda		X						
Ukraine	Article 177 of the Criminal Code of 15/04/2001 (version of 2010)				up to 2 years	100 to 400 tax-free minimum incomes	Correctional labor up to 2 years	X
United Arab Emirates	Article 62 of the Federal Law No. 31 for the Year 2006				3 months-2 years	5.000-100.000 dirhams		

Country	Provision of Law	No	Yes						
			Requisites		Type of sanction				
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)	
	Pertaining to the Industrial Regulation and Protection of Patents, Industrial Drawings, and Designs								
United Kingdom		X							
United Republic of Tanzania	Section 70 of Chapter 217, the Patents (Registration) Act of 1995		X		5 years	Up to 500.000 shillings			X
United States of America		X							
Uruguay	Articles 106 and 107 of the Law No. 17.164 of 02/09/1999 Regulating Rights and Obligations Relating to Patents,				6 months-3 years		Confiscation of infringing goods		X

Country	Provision of Law	No	Yes						
			Requisites		Type of sanction				
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)	
	Utility Models and Industrial Designs								
Uzbekistan	Articles 66-1 and 149 of the Criminal Code as last amended by Law N° 93 of 25/04/2007				Up to 6 months	25 to 75 times of the minimum wage	Deprivation of certain right up to 5 years, Or correctional labor for up to 3 years		
Vanuatu		X							
Venezuela	Article 98 of the Industrial Property Law of 02/09/1955		X		1-12 months				
Yemen	Article 36 of the Law No. 2 of 2011 on Patents, Utility Models, Layout Designs of					Up to a million rial			X

Country	Provision of Law	No	Yes						
			Requisites		Type of sanction				
			Willful infringement (explicitly specified in the law)	Commercial scale (explicitly specified in the law)	Imprisonment	Fine	Others	Aggravating circumstances (explicitly provided for patent infringement)	
	Integrated Circuits and Undisclosed Information								
Zambia		X							
Zimbabwe		X							
OAPI	Articles 58 to 65 and 67 of Annex I on Patents of the Bangui Agreement				1-6 months (in case of recidivism)	1,000,000 to 3,000,000 CFA francs 1,000,000 to 6,000,000 CFA francs (in case of utility model infringement)	Seizure of infringing goods	X	

(II) MEASURES RELATED TO SECURITY WHICH MIGHT RESULT IN A LIMITATION OF PATENT RIGHTS (SO-CALLED “SECURITY EXCEPTIONS”)

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
Albania	Article 31 of the Industrial Property Law No. 9977 of 07/07/2008	X	X	X		
Algeria	Article 19 of the Ordinance No.03-07 of 19/07/2003	X	Not specified within the Patent Law			
Antigua and Barbuda	No					
Argentina	No					
Armenia	Article 7 of the Law on Inventions, Utility Models and Industrial Designs of 10/06/2008	X	To be specified by Ministerial Decree			
Australia	Sections 147, 152 and 153 of the Patents Act No. 83 of 1990 as	X	X		X	X Patent not to be granted to inventions

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
	amended by Act No. 35 of 2012 and Section 1(4) of the Nuclear Non-Proliferation (Safeguards) Act of 1987 (version of 20/04/2012)					concerning associated technologies under the Safeguards Act of 1987
Austria	No	X	X	X		
Azerbaijan	Articles 25 and 30.4 of the Law of the Republic of Azerbaijan on Patents of 2009	X				
Bahrain	Article 20 of the law on Patents and Utility Models No. 1 of 2004 as last amended by Law No. 14 of 2006			X		
Bangladesh	Section 21A of the Patents and Designs Act (Act	X		X		

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
	No. II of 1911)					
Barbados	Section 17 (6) of the Patents Act No. 18 of 26/07/2001					X Of inventions which might provoke a breach of the peace
Belarus	Article 32 of the Law of the Republic of Belarus No. 160-Z of December 16, 2002, on Patents for Inventions, Utility Models, Industrial Designs (as amended up to 22/12/2011)		X			
Belgium	Article 31 ° 4 of the Patent Law of 28/03/1984 (Consolidated version as of 01/01/2010) and Article 2 of the Law of 08/07/1977 on	X	X	X		

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
	the approval of the Strasbourg convention, PCT and the Convention on the European Patent and its Regulations					
Belize	No					
Bhutan	No					
Bosnia and Herzegovina	No					
Botswana	No					
Brazil	Article 75 of the Industrial Property Law No. 9.279 of 14/05/1996, as last amended by Law No. 10.196 of 14/02/2001 and Article 1 to 3 of the Decree No.	X	X			

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
	2.553 of 16/04/1998 (Implementation of Articles 75, 88 to 93 of Law No. 9.279 of May 14, 1996 on Industrial Property)					
Brunei Darussalam	Articles 27 (3), 32 and 33 of the Patents Order of 12/10/2011	X	X	X		
Bulgaria	Articles 24, 25 and 45a of the Law on Patents and Utility Model Registration No. 27/2 of 1993 as last amended on 20/07/2007 (version of 2010 available only in Bulgarian) and Regulation on the Secret Patents of 20/12/2008 (available only in Bulgarian)	X	X			

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
Burundi	No					
Cabo Verde	No					
Canada	Sections 20 to 22 of the Patent Act (R.S.C., 1985, c. P-4), as last amended on 21/09/2006	X	X	X	X	
Cambodia	No					
Chile	No					
China	Articles 14 and 20 of the Patents Law of 28/12/2008 and Articles from 7 to 9 of the Regulation on National Defense Patent of 17/09/2004	X	X	X		

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
Croatia	Article 6 of the Data Secrecy Act of 13/07/2007	X				
Cuba	Articles 84 to 90 of the Decree-Law No. 290 of November 20, 2011 on Inventions and Industrial Designs and Models	X	X			
Cyprus	No					
Czech Republic	Section 5 (3), 24 (4) of the Law No. 527/1990 of 27/11/1990 on Inventions and Rationalization Proposals (as last amended by Act No. 207/2000 Coll.)	X	X			
Democratic Republic of Korea	No					

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
Democratic Republic of the Congo	Articles 39 to 46 of the Law No. 82-001 of 07/01/1982 on Industrial Property	X	X			
Denmark	Section 70 of the Consolidated Patents Act No. 108 of 24/01/2012 and Sections 1, 2, 2a and 3 of the Consolidate Secret Patents Act No. 107 of 24/01/2012	X	X			
Djibouti	No					
Dominica	No					
Dominican Republic	No					
Ecuador	No					

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
Egypt	Articles 17 and 25 of the Law No. 82 of 2002 Pertaining to the Protection of Intellectual Property Rights, Patents of Invention, Utility Models, Layout Designs of Integrated Circuits and Undisclosed Information			X		
El Salvador	No					
Estonia	§ 18 and § 19 (4) and (5) of the Patent Act (Act No. RT I 1994, 25, 406, as last amended by Act No. RT I, 28.12.2011, 1)	Not explicitly mentioned in the law	X			
Ethiopia	No					
Finland	Sections 75 and 76 of the Patents	X	X	X		

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
	Act of No. 550 of 15/12/1967 as last amended on 17/06/2011 and Sections 1 and 2 of the Act on Inventions of Importance to the Defence of the Country No 551 of 15/12/1967 as last amended in 1997					
France	Articles L612-8, L612-9, L612-10, L613-20 and L613-21 of the legislative part and Articles from R612-26 to R612-32 of the Regulation Part of the Intellectual Property Code as on 17/09/2012	X	X	X		

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
Gambia	No					
Georgia	Article 7 of the Law on Patents of 05/02/1999 as last amended in 2010 and Article 2 of the Law on State Secrets of 29/10/1996 as last amended in 1999	X				
Germany	Section 13 of the Patent Law of 05/05/1936 as last amended by the Law of 31/07/2009			X		
Ghana	No					
Greece	Law No. 4325/1963 on the Inventions Concerning the National Defence and Ministerial Decision 56200 of 1964	X	X	X	X	

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
Guatemala	No					
Guinea Bissau	No					
Guyana	Sections 33 and 34 of the Patents and Designs Act - Cap. 90:03 of 1937 (current version of 1972)	X		X		
Honduras	No					
Hungary	Article 53 (5) of the Act XXXIII of 1995 on the protection of inventions by patents (consolidated text of 15/03/2014) and Decree No. 141 of 2008 (V. 16.) on the Detailed Rules of the Procedure to Declare a Patent					

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
	Application a State Secret (version 2011: text available only in Hungarian)					
Iceland	Article 70 of the Patents Act No. 17/1991, as last amended by Act No. 126/2011			X		
India	Sections 4 and 35 to 42 of the Patents Act of 1970 as last amended by Act no. 15 of 2005, Rules 71 and 72 of the Patent Rules of 2003 and Section 20 of the Atomic Energy Act of 1962	X	X	X		X (of inventions related to atomic energy falling within subsection (1) of Section 20 of the Atomic Energy Act of 1962)
Indonesia	Articles 99 to 103 of the Patents Law No. 14 of			X		

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
	01/08/2001 and Articles 2, 3 and 4 of the Government Regulation No. 27 of 2004 regarding the Procedure of Exploitation of Patent by the Government					
Iran	No					
Ireland	No					
Israel	Articles 94 to 111 of the Patents Law 5727-1967, as consolidated in 2014	X	X	X	X	
Italy	Articles 141, 142 and 143 of the Industrial Property Code of 2005	X	X	X		
Jamaica	No					

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
Japan	No					
Jordan	No					
Kazakhstan	Article 37 of the Law on Patents of the Republic of Kazakhstan No. 427-I of July 16, 1999 (as amended on July 10, 2012)		X			
Kenya	Articles 27 and 28 of the Industrial Property Act of 27/07/2001	X	X		X	
Kyrgyzstan	Article 8 of the Law of the Kyrgyz Republic on Secret Inventions (as amended by Law No. 38 of March 22, 2007)	X				
Lao People's Democratic Republic	No					

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
Latvia	Section 11 of the Patent Law of 15/02/2007	X		X		
Lebanon	Articles 38 and 39 of the Law No. 240/2000 of 2000 on Patents			X		
Liberia	No					
Libya	Article 23 of the Law No. 8 of 1959 on Patents and Industrial Designs and Models			X		
Lithuania	Article 21 and 24 §3 of the Law on Patents of 18/01/1994, No. I-372, as last amended on 10/05/2007 by Law No. X-1119	X				

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
Luxembourg	Article 38 of the Patents Law of July 20, 1992, as amended by the Law of 24/05/1998 and Law of 8/07/1967	X		X		
Madagascar	Article 9 of the Ordinance No. 89-019 Establishing Arrangements for the Protection of Industrial Property of 31/07/1989					X
Malawi	Section 24 of the Patents Act, Chapter 49:02 of 1957 (version as of 1986)	X		X		
Malaysia	Article 30A of the Patents Act of 1983 as last amended in 2006	X				X Patent not to be granted to secret inventions

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
Malta	No					
Mauritius	No					
Mexico	No					
Mongolia	Article 22 of the Patents Act of 25/06/1993 as last amended on 19/01/2006	X				
Montenegro	Articles 87 to 91 of the Law on Patents of 31/10/2008	X	X	X		
Morocco	Article 42 of the Law No. 97-17 on the Protection of Industrial Property of 15/02/2000 as last amended by Law No. 31-05					X atent not to be granted to secret inventions
Mozambique	No					

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
Nepal	No					
Netherlands	Articles 40 to 46 of the Patents Act of 15/12/1994 (Text as it applies on: 03/06/2009)	X	X	X		
New Zealand	Sections 132 to 139 of the Patents Act No. 68 of 2013	X				X Patent not to be granted to secret inventions
Nicaragua	No					
Nigeria	No					
Norway	Sections 70 and 71 of the Patents Act No. 9 of 15/12/1967, as amended up to Act No. 8 of 01/07/2010 and Act on Inventions of Importance to the Defence of the Realm (Act			X		

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
	No. 8 of 26/06/1953, as last amended on 01/01/2002) (available only in Norwegian)					
Oman	No					
Pakistan	Sections 25 and 26 of the Patents Ordinance No. LXI of 2000	X	X	X		
Panama	No					
Papua New Guinea	No					
Paraguay	No					
Philippines	No					
Poland	Articles 56 to 62 of the Industrial Property Law of 30/06/2000 as	X				X Patent not to be granted to secret inventions

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
	last amended by act of 29 June 2007					
Portugal	No					
Republic of Korea	Article 41 of the Patent Act No. 950 of 31/12/1961 as last amended by Act No. 11690 of 2013	X	X	X		
Republic of Moldova	No					
Romania	Articles 40 and 41 of the Patent Law No. 64/1991 as republished on Official Gazette of Romania, Part I, no. 541/ 8 august 2007 and Article 7 (3) to (20) of the Implementing Regulations of the	X	X			

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
	Patent Law No. 64/1991 of 21/05/2008					
Russian Federation	Articles 1349 (1), (2) and (3), 1390 (5), 1395 (1) and 1401 to 1405 of the Civil Code, Chapter 72	X	X	Use of the secret invention: inconformity with the legislation on official secret	X	X Exception only applicable in case of protection of secret inventions through utility models
Rwanda	No					
Saint Kitts and Nevis	Article 2 of the Patents (Public Officers) Regulations	X				
Saint Lucia	Sections 29 and 30 of the Patents Act No. 16 of 2001	X				
Saint Vincent and the Grenadines	No					
Samoa	No					
Sao Tome and Principe	No					

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
Saudi Arabia	Article 49 of the implementing regulations of Law of Patents, Layout-Designs of Integrated Circuits, Plant Varieties, and Industrial Designs of 26/12/2004	X		X		
Serbia	Articles 51 to 56 of the Law on Patents no. 99/11 of 27/12/2011	X	X	X		
Seychelles	No					
Sierra Leone	No					
Singapore	Sections 33 and 34 of the Patents Act, Chapter 221, Act 21 of 1994, consolidated version of 10/03/2014	X	X	X		

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
Slovakia	Article 59 and 60 of the Act No. 435/2001 Coll. on Patents, Supplementary Protection Certificates and Amendment of Some Acts (The Patent Act)	X	X			
Slovenia	Article 17 of the Industrial Property Act (ZIL-1-UPB3) of 23/05/2001 as last amended on 06/02/2006	X		X		
South Africa	Sections 78 to 80 of the Patents Act, Act No. 57 of 1978, as last amended by Act No. 20 of 2005			X		
South Sudan	No					

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
Spain	Articles 119 to 122 of the Law No. 11/1986 of 20/03/1986 on Patents, as last amended by Law No. 14/2011 of 01/06/2011	X	X	X		
Sri Lanka	Article 62 (3) of the Intellectual Property Act No. 36 of 2003					X (invention which is useful in the utilization of special nuclear material or atomic energy in an atomic weapon)
Sudan	No					
Swaziland	No					
Sweden	Articles 78 and 79 of the Patents Act (1967:837) as last amended on 01/01/2011 and Defence Inventions Act			X		

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
	(1971:1078) (available only in Swedish)					
Switzerland	No			X		
Tajikistan	Articles 4, 5, 8 and 10 of the Law of the Republic of Tajikistan on Secret Inventions of 21/07/2010	X		X		
Thailand	No					
The Former Yugoslav Republic of Macedonia	Articles 71 to 73 of the Law on Industrial Property No. 07-1006/1 of 12/02/2009	X		X		
Tonga	No					
Trinidad and Tobago	No					
Tunisia	No					

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
Turkey	Articles 125 to 128 of the Decree Law No.551 pertaining to the protection of patent rights of 24/06/1995 as last amended by the Decision of the Constitutional Court No. 2009/19 of 5/02/2009	X	X	X		
Turkmenistan	Article 49 of the Law of Turkmenistan No. 220-III of October 23, 2008, on Inventions and Industrial Designs (as amended by Law No. 14-IV of June 22, 2013)		X			
Uganda	No					

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
United Arab Emirates	Article 6(2) of the Federal Law No. 31 of 2006 Pertaining to the Industrial Regulation and Protection of Patents, Industrial Drawings, and Designs	Not specified	Not specified	Not specified	Not specified	Not specified
United Kingdom	Sections 16 (2), 22 and 23 of the Patents Act of 1977 as on October 2011 (consolidated version)	X	X	X	X	
United Republic of Tanzania	No					
United States of America	Sections from 181 to 188 of the U.S.C. 35 of 01/01/1953 (Consolidated Patent Laws as of	X	X	X	X	X for any invention or discovery which is useful solely in the utilization of

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
	May 2014) and Sections 151 and 152 of the Nuclear Regulatory Legislation of 2013					special nuclear material or atomic energy in an atomic weapon
Uruguay	No					
Vanuatu	Section 15 of the Patents Act No. 2 of 2003	X				
Viet Nam	Article 7(3) of the Law No. 50/2005/QH11 of 29/11/2005, on Intellectual Property as last amended by Law No. 36/2009/QH12 of 19/06/2009 and Articles 23a to 23c of the Government's Decree No. 103/2006/ND-CP	X	X	X		

Countries	Provision of law	Patent-grant Procedure				Exclusions from patentability
		Disclosure related measures	Other measures	Expropriation (or similar measures)	Specific Provisions/Law on atomic-nuclear energy	
	of 22/09/2006, as last amended by Decree No. 122/2010/ND-CP					
Yemen	No					
Zambia	Section 24 of the Patents Act (Chapter 400) of 1957 as last amended on 28/12/1987	X		X		
Zimbabwe	Section 20 of the Patents Act, Chapter 26:03 of 01/02/1972, as last amended by Act No. 14/2002	X		X		

[End of Annex II and of document]