Inputs from Member States and Regional Patent Offices to the Thirty-Eighth Session of the Standing Committee on the Law of Patents

Respondent Information

First Name:

[redacted]

Last Name:

[redacted]

Country:

Malaysia

IP Office

MALAYSIAN INTELLECTUAL PROPERTY OFFICE

Job title

ASSISTANT DIRECTOR OF POLICY AND INTERNATIONAL AFFAIRS DIVISION

Email address:

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Disclaimer:

The information provided in response to this questionnaire is understood to be submitted on behalf of the Member State or regional organization concerned, through its competent authority and in accordance with its applicable official internal procedures.
It is assumed that the person completing and submitting the questionnaire is duly authorized to do so and that the information reflects the official position or practice of the Member State or organization, to the extent possible.

I confirm that I have read and understood the statement above and that I agree with its contents.

i) Study on the determination of inventorship and conditions of foreign filing, with a view to identifying potential challenges for innovators in the cross-border collaborative environment

1. Which of the following does the applicable legal framework in your jurisdiction require before a patent application can be filed in another country or at a regional patent organization?

Any other mandatory authorization (Please specify): Malaysian Patent Act 1983, Section 23A(2)

2. Please list the statutes or guidance documents that patent applicants in your country can consult to inform themselves of the foreign filing requirements and the procedure to follow.

APPLICATION FOR WRITTEN AUTHORITY:
Regulations 7A and 45(3) and Directive of Patents Act 1983 And Patents Regulations 1986.
Patents Form No. 1B and accompanied by description of the invention to be filed outside Malaysia.

4. What specific criteria will trigger the Foreign Filing Conditionality?

Nationality or residency of the applicant;

5. Does your law allow for a deemed license or automatic approval, if the Office does not act or respond within a specific time period?

No

6. Does your jurisdiction's patent law provide for the imposition of a "Secrecy Order" (or other similar national security restrictions) that prohibits or restricts an applicant from filing for patent protection in other jurisdictions?

Yes

What is the nature/impact of this restriction regarding foreign filing?

Section 23A should be enforced to ensure that inventions made by Malaysian residents are first reviewed domestically, thereby protecting national security, preventing uncontrolled export of sensitive technology, and safeguarding national economic interests.

7. Please cite, if available, any official studies, policy documents, or reports which highlight the working of the foreign filing requirements in your jurisdiction.

None

Final review before submission

Confirmation of submission

I am aware that by clicking "Submit" below, my responses will be sent to the SCP Secretariat.