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:

South Africa

IP Office

CIPC

Job title

Divisional Manager ISP

Email address:

[redacted]

Email address confirmation:

[redacted]

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?

Security clearance

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.

Section 43(1) of the Nuclear Energy Act No. 46 of 1999 and the Regulations thereof.

3. Please list the most important case law on foreign filing conditionality requirements, if any, with a brief summary of the main findings.

N/A

Do you have a digital copy of the case law that you could upload?

No

Please provide below the exact citation of the case law, or provide an online link to the case law.

N/A

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

Impact on the country's national security or national defense;
Nationality or residency of the inventor;
Nationality or residency of the applicant;
The technical field or subject matter of the invention (e.g. atomic/nuclear, weaponry, arms, ammunition, blasting, surveillance, cryptology etc.);

Please provide any further details on the scope of the specific criteria applicable in your jurisdiction.

Section 43(1) of the Nuclear Energy Act No. 46 of 1999 and the regulations thereof.

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 80(1) of the Patents Act 57. of 1978 read together with Section 41(3)(c) of the Nuclear Energy Act No. 46 of 1999.

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.