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**Council for Trade-Related Aspects of  
Intellectual Property Rights**

Original: English/  
anglais/  
inglés

**MAIN DEDICATED INTELLECTUAL PROPERTY  
LAWS AND REGULATIONS NOTIFIED UNDER  
ARTICLE 63.2 OF THE AGREEMENT**

**MOLDOVA**

The present document reproduces the text<sup>1</sup> of the Provisional Statute N° 456-XIII, Concerning the Protection of Industrial Property (only Articles related to the protection of utility models), as notified by Moldova under Article 63.2 of the Agreement (see document IP/N/1/MDA/1).

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**Conseil des aspects des droits de propriété  
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET REGLEMENTATIONS CONSACREES A LA  
PROPRIETE INTELLECTUELLE NOTIFIEES AU TITRE  
DE L'ARTICLE 63:2 DE L'ACCORD**

**MOLDOVA**

Le présent document contient le texte<sup>1</sup> de la Loi provisoire n° 456-XIII concernant la protection de la propriété industrielle (uniquement les articles se rapportant à la protection des modèles d'utilité), notifié par la Moldova au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/MDA/1).

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**Consejo de los Aspectos de los Derechos de Propiedad  
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA  
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD  
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

**MOLDOVA**

En el presente documento se reproduce el texto<sup>1</sup> de la Ley provisional N° 456-XIII relativa a la protección de la propiedad industrial (solamente los artículos relacionados con la protección de los modelos de utilidad), notificado por Moldova de conformidad con lo dispuesto en el párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/MDA/1).

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<sup>1</sup> In English only. The text in the original language is available for consultation by interested Delegations at the WTO Secretariat./En anglais seulement. Les délégations intéressées peuvent consulter le texte, dans sa langue d'origine, au Secrétariat de l'OMC./En inglés solamente. Las delegaciones interesadas podrán consultar en la Secretaría de la OMC el texto en su idioma original.

## Explicative Notice

We have to inform you that the Provisional Statute on Industrial Property Protection in the Republic of Moldova (adopted by the Government Decision no.456 of 26.07.1993) is in force in respect of utility models and breeds of animals.

The provisions of the Statute thereof in respect of patents, trademarks and appellations of origin, and industrial designs have been annulled by approving the following laws:

Law on Patents for Invention no. 461/1995

Law on Trademarks and Appellations of Origin of Goods no. 588 / 1995

Law on Industrial Design Protection no. 991 / 1996

Law on Plant Varieties Protection no. 915 / 1996

Law on the Protection of Topographies of Integrated Circuits no. 655 / 1999

### **PROVISIONAL STATUTE ON INDUSTRIAL PROPERTY PROTECTION IN THE REPUBLIC OF MOLDOVA**

#### Chapter I. General Statutes

1. The Provisional Statute on Industrial Property Protection in the Republic of Moldova (henceforth-Statute) regulates relations concerning the creation, legal protection and utilization of objects of industrial property in the Republic of Moldova.

2. Objects of industrial property protected by the state are inventions, utility models, industrial designs, product trademarks and service trademarks (henceforth-trademarks), appellations of origin.

3. The state organ on the territory of the Republic of Moldova that provides legal protection for objects of industrial property, publishes the Official Bulletin of Industrial Property and compiles a national fund of documentation on industrial property based on mutual exchange with other countries is the State Agency of the Republic of Moldova for Industrial Property Protection (henceforth-AGEPI).

4. Ministries and other organs of the state executive branch coordinate the operations of enterprises, institutions and organizations (henceforth-enterprises) that relate to questions concerning the creation, protection and utilization of objects of industrial property.

Enterprises, regardless of their form of property, have the right to create structural subdivisions for the implementation of operations relating to questions concerning the creation, protection and utilization of industrial property.

5. Names and designations of objects of industrial property that contain words must, when the need arises, undergo examination in order to verify compliance and accuracy both in Romanian and in other languages (in the case that other languages are used) in the appropriate republican organs (the National Center for Linguistic Standards or the Chamber of Trade and Industry).

6. Foreign natural and legal persons residing or located outside the borders of Republic of Moldova territory are availed of the rights provided for by the present Statute through the force of international treaties to which the Republic of Moldova is a party, or based on the principle of mutual protection in compliance with bilateral agreements with the countries of which they are representatives.

7. If statutes different from those contained in the present Statute are established in international conventions to which the Republic of Moldova is a party, the regulations of the international conventions are applied.

## Chapter II. Protectability Conditions for Objects of Industrial Property

### Section I. Inventions

8. An invention is patentable if it is novel, demonstrates a level of innovation and is industrially applicable.

The object of a patentable invention may be a product or method, or a utilization of an already known product or method that in given a new use or improved upon.

Inventions that have as their subject matter products include systems, substances, strains of microorganisms, plant and animal cell cultures.

A method is a process that carries out operations on material objects.

Inventions that have as their subject matter new sorts of plants, hybrids or breeds of animals are patentable if they are novel, distinctive, homogeneous and stable.

9. An invention is novel if it is unknown at the current state of the art. The state of the art includes all knowledge that has become generally available before the filing date of an application for issuance of a patent, or before the date of recognized priority.

The disclosure of an invention is disregarded if it is originated by the inventor or his legal successor and occurs during the 12 months

preceding the filing date of an application for issuance of a patent on the invention or the date of recognized priority.

10. An invention has demonstrated a level of innovation if, according to a specialist in that area, it does not proceed in an obvious manner from state-of-the-art knowledge.

11. An invention is industrially applicable if its subject can be utilized at minimum in one branch of industry, agriculture or any other activity and can be reproduced on a large scale with the same characteristics.

12. Sorts of plants, hybrids or breeds of animals are considered novel if, by the filing date of the application for issuance of a patent, the reproductive material has not been sold or otherwise transferred to third parties by an ameliorator or with his approval under the following conditions:

on the territory of the Republic of Moldova,

one year prior to the filing of an application for issuance of a patent;  
on the territory of other states,  
more than four years before an application for issuance of a patent is filed or six years before registration of applications for issuance of patents on trees, fruit cultures or grapes.

Exposure by the mass media of the existence of a new sort of plant, hybrid or animal breed is not considered a disclosure of its novelty.

Sorts of plants, hybrids or breeds of animals are possessed of distinct differences if, by the date that an application for issuance of a patent is filed, at minimum one of the sum of their essential characteristics does not correspond to a genotype or combination of genotypes, the existence of which is already generally known.

Sorts of plants, hybrids or breeds of animals are homogeneous if they are sufficiently similar in their characteristics, taking into consideration the possible deviations that can occur in connection with the peculiarities of reproduction.

Sorts of plants, hybrids and breeds of animals are considered stable if their relevant characteristics remain unaltered after several multiplications or at the end of each reproductive cycle.

Patent protection for new sorts of plants, hybrids and breeds of animals is implemented in compliance with a special Statute.

13. Ideas, discoveries, scientific theories, mathematical methods, computer programs, organizational and economic solutions, diagrams, training and teaching methods, game rules, plans and schematics for civil facilities, systematization methods and plans, physical phenomena, culinary recipes and achievements of an aesthetic character are not considered patentable inventions.

Inventions that run counter to public interests, humane and moral principles cannot receive legal protection.

## Section II. Utility Models

14. A utility model may be registered if it is concerned with the constructive implementation of the means of production and of objects of consumption or their component parts, and if it is new and industrially applicable.

15. A utility model is considered to be possessed of novelty if it is unknown at a state-of-the-art level. The state of the art includes all knowledge that has become generally accessible before the date the application for registration of a utility model is filed or the date of recognized priority.

Disclosure of a utility model is disregarded if it is originated by the creator of the utility model or his legal successor and occurs during a period of no more than six months preceding the date the application is filed or of recognized priority.

16. A utility model is industrially applicable if it can be manufactured and utilized in a minimum of one field of activity and can be reproduced on a large scale with the same characteristics.

17. Utility models that run counter to public interests, humane and moral principles are not registered.

## Section III. Industrial Designs

18. An industrial design may be registered as a new exterior view of an article having a utilitarian function and that is industrially applicable.

19. An industrial design is considered to be possessed of novelty if it is not known from information that has become generally accessible to the public before the date the application is filed or before the date of recognized priority for that category of products.

Disclosure of an industrial design is disregarded if it is originated by the author or his legal successor and occurs during the six months preceding the date the application is registered or the date of recognized priority.

20. An industrial design is industrially applicable if the object in which it is utilized can be reproduced on a large scale.

21. Industrial Designs whose external appearance is determined by their technical functions cannot be registered, even if they are possessed of novelty.

Industrial Designs whose purpose and outward appearance run counter to public interests and moral principles are not protected.

#### Section IV. Trademarks, Service Marks and Appellations of Origin

22. Trademarks and service marks are designations used by natural or legal persons to distinguish their products, types of jobs and services from similar products, types of jobs and services offered by other natural or legal persons. Marks that belong to one particular natural or legal person are considered individual marks.

Collective marks belong only to more than one legal persons (production, commercial, service and other associations and unions) that do not usually engage in direct commercial or industrial operations. Their purpose is usually to act as a guarantee of quality for a product or for a product's derivation, and they appear, as a rule, along with an individual mark.

A certification mark is a mark attesting to certain general characteristics of articles, types of jobs or services, particularly quality, precision, materials utilized, modes of production, methods utilized or technologies.

23. Designations consisting of words, letters, numbers, graphic designs (two- or three-dimensional), combinations of these elements, in one or more colors, the form of the article or its packaging, audio signals or musical phrases may be registered as marks.

24. Designations cannot be registered as marks that:

a. do not differ substantially from other identical or similar trademarks or service marks registered in the Republic of Moldova or protected on the basis of international conventions, with the exception of cases where registration is requested by the owners of those marks or on their approval;

b. are copies, imitations or translations of marks of different countries generally known in the Republic of Moldova for identical or similar articles, types of jobs and services, without the approval of the applicants or owners of those marks;

c. contain only designations that are or have become a passed into general use, that are or have become necessary or typical for those articles, types of jobs and services, or that exclusively indicate the method, time or place of production or derivation, purpose, value, quality, quantity or weight of goods;

d. contain, without the permission of competent organs: names of organizations or administrative-territorial units or state symbols of the Republic of Moldova; copies or imitations of seals, flags, orders, medals, emblems or marks of distinction, official markings, control, quality, guaranty or assay marks;

e. contain elements provided for in Point d that are the property of other states, international or inter-governmental organizations, if their use is forbidden by conventions to which the Republic of Moldova is a party;

f. that are false or capable of misleading the consumer or that run counter to laws, public order and moral principles.

25. An appellation of origin is the name of the country, settled point or particular geographical zone used to designate a product, the properties of which exclusively or chiefly are considered characteristic environmental or human factors for the given geographical zone. Terms derived from the name of a country or administrative territorial area, or historical geographical names may also serve as appellations of origin.

A appellation of origin may be a word, design or mark that identifies the actual place of origin of the product or service.

26. Appellations not subject to registration are those that:
- have come into general use as typical product appellations;
  - are capable of misleading the consumer concerning the origin, production method or quality of a product;
  - run counter to public interests and morals.

### Chapter III. Protective Documents for Objects of Industrial Property

27. Rights to objects of industrial property are recognized and protected on the territory of the Republic of Moldova by means of the issuance of protective documents by AGEPI.

28. A protective document for an object of industrial property grants its owner the exclusive right to the use of the object on the territory of the Republic of Moldova for the term of its validity.

29. Protective documents for objects of industrial property are:

- for an invention -a patent on the invention;
- for Industrial Designs, trademarks, service marks, appellations of origin and utility models-a certificate of registration.

A patent on an invention is valid for 15 years, calculated from the date of the application's receipt by AGEPI. The term of validity for a patent on improvements to an invention is limited by the term of validity for the patent on the invention that was granted earlier, without which it cannot be utilized, but is not less than ten years.

The term of validity for a certificate of registration for an industrial designs is ten years, calculated from the date the application is filed with AGEPI, and may be extended five years on petition by the owner.

A certificate of registration for a trademark or service mark is valid for ten years from the application's filing date with AGEPI.

The term of validity for a certificate of registration may be extended by five or ten years an unlimited number of times based on a petition by the owner filed no later than six months after the preceding term expires, on the condition that there have been no substantial alterations made to the mark. If the same mark has been registered at a different time by the same owner for various products, kinds of jobs and services, earlier registrations may be combined when it is renewed. Extensions on a mark's registration are valid for all combined applications, with the new term of protection commencing when the term of protection expires on the earlier application.

A certificate of registration for a appellation of origin has unlimited validity.

A registration for a utility model is valid for five years from the application's filing date with AGEPI, and may be extended on petition by the owner for five to ten years.

30. The amount of legal protection afforded by a patent on an invention or by a certificate of registration for a utility model is determined by their claims, while a certificate of registration for an industrial designs is determined by the entire group of characteristics depicted in graphic representations of the article. Descriptions and drawings are used to interpret claims on inventions and utility models or graphic representations of articles.

#### Chapter IV. Owners of Protective Documents

31. The right to acquire a protective document for an invention, industrial design, or for a utility model, belongs to the author or his legal successor.

The right to acquire a certificate of registration for a trademark or service mark belongs to the legal person, or the natural person, who is engaged in commercial activity.

32. If several natural persons have participated in the creation of an invention, industrial design, or utility model, each of them is considered a co-author. The order according to which the rights belonging to the authors will be distributed is determined by an agreement between them.

33. If the author of an invention, utility model, industrial design is an employee, then, if more advantageous conditions are not provided for him by contract, the right to acquire a protective document for an object of industrial property belongs to:

- a. the enterprise, for an object of industrial property created by an employee in the course of fulfilling a labor contract that clearly stipulates that activity concerned with the creation of new objects of industrial property complies with his functions. In this situation, the author receives additional compensation as determined by the conditions of the contract;
- b. the employee, for an object of industrial property created during the performance of employee duties, or in the enterprise's area of operations that utilize skills, techniques, special substances or data acquired at the enterprise, or with its material aid, on the condition that no other agreement between them exists.

If an invention, utility model, industrial designs is the result of a research contract, then, in the absence of other conditions, the right to acquire a protective document belongs to the contracting agency for the research, in which case the author receives the right to additional compensation as determined by the conditions of a supplementary agreement to the contract.

In the case indicated in Paragraph I, Point b, the enterprise has the primary right to conclude a contract concerning an object of industrial property belonging to its employee, which must be concluded within three months of the date the proposal is made to the employee; if no agreement is reached between the enterprise and the employee on the cost by contract, it is established by the courts.

In the cases referred to in Paragraph I, Points a, b, and Paragraph II, the parties are obligated to inform each other in written form of the creation and stage of realization of the object of industrial property, and to refrain from any disclosure. Violation of the obligation to inform each other results in the guilty party's liability under current law.

In the event referred to in Paragraph I, Point a, and Paragraph 2, if an enterprise fails to file an application for a protective document with AGEPI within 60 days of the date of a written notice to its employees that a description of an object of industrial property is being compiled, on the condition that there was no other agreement between them, then the employee has the right to file an application and receive a protective document in his own name according to the conditions provided for in Paragraph I, Point b.

34. If an object of industrial property was created by several persons, independently of each other, then the right to acquire a protective document belongs to the person who filed an application with AGEPI first (year, month, date), and if priority has been recognized-to the person whose application for a protective document has the earlier priority date, on condition that the application has not been declined or withdrawn.

35. In the case that a protective document for an object of industrial property is requested in the name of more than one applicant, one protective document is issued to the applicant with the authority to receive the protective document, as indicated by the application and in compliance with a contract between the applicants, while the other applicants have the right to acquire, on their petition, copies of the protective document.

36. If the applicant and the author are different persons, the author has the right to acquire a copy of the protective document by petitioning.

#### Chapter V. Acquisition of Protective Documents for Objects of Industrial Property

37. An application to receive a protective document for an object of industrial property is filed with AGEPI by the applicant personally or through a patent attorney of the Republic of Moldova.

The patent attorney's authority is certified by a letter provided to him by the principal.

Foreign natural or legal persons, or their patent attorneys, file applications to receive protective documents for objects of industrial property and their maintenance in force in the Republic of Moldova through patent attorneys of the Republic of Moldova.

38. An application for issuance of a patent on an invention or for registration of a utility model should apply to only one invention, utility model or group of inventions or utility models related to each other insofar as they form a single innovative idea.

An application in which the conditions stipulated in Paragraph I are not fulfilled may be divided by the applicant on the suggestion of AGEPI within two months of the day of notification.

An application for registration of factory marks or trademarks, service marks or appellations of origin applies to only one mark or appellation.

39. An application for issuance of a patent on an invention or an application for registration of a utility model is filed with AGEPI in three copies and must contain:

- a declaration giving information concerning the author (authors), the applicant and the person authorized to receive the protective document;
- a description;
- a claim;
- drawings and graphic reproductions where necessary.

An application for registration of an industrial designs is filed with AGEPI in three copies and must contain:

- a declaration including information concerning the author (authors), the applicant and the person authorized to receive the protective document;
- a set of photographs giving a full and detailed representation of the industrial design;
- a description;
- blueprints and plans where necessary.

An application for registration of a trademark, service mark or appellation of origin must contain:

- a declaration in two copies, including information concerning the applicant, the name or a picture of the mark and a description of it, a list of the articles and services for which registration of the mark is requested and, if a appellation of origin is being applied for, indication of the geographic zone;

- 10 graphic representations of the mark, sized 75x75 mm, that must reproduce the mark in every detail, with the stipulations that: if a particular color or more than one color are claimed as components of the mark, the representations must reproduce the colors of the mark; if a label is claimed, then one sample of the label is presented in its actual size, as well;

- if a sound signal is claimed, 10 copies of a tape of the signal that is being registered;



graphic representations, flat or embossed, three-dimensional, reflecting the form of the article and its packaging, or a reproduction of them;

a list of enterprises having the right to utilize a collective mark, with indication of their location and sphere of operations, as well as proof of the existence of Regulations for the use of the collective mark;

a document confirming the applicant's right to register the appellation of origin, if a appellation of origin is being registered;

a document issued by competent organs confirming the specific properties of a product manufactured in the corresponding zone to which the appellation of origin applies, if a appellation of origin is claimed;

for foreign applicants-a document recognizing the appellation of origin in the product's country of origin;

permission to carry out the certification process;

the Statute on the Use of a Certification Mark.

The following are appended to an application to receive protective documents for objects of industrial property:

an abstract (for inventions and utility models), in three copies;

a document confirming payment of the fee, in one copy;

certificates of priority, when necessary, in one copy;

information concerning the patent attorney and a document attesting to his authority, where necessary, in one copy.

The declaration for issuance of a protective document is filed in Romanian. Other application documents are presented in Romanian or another language of international relations with an appended translation of all documents into Romanian. The translation into Romanian is presented to AGEPI within two months from the date of the application's receipt.

40. The declaration, accompanied by the appended documents stipulated in Point 39, Paragraphs 1, 2 and 3, is the basis of a correctly formulated national application for the corresponding object of industrial property.

Foreign natural and legal persons of countries that are parties to agreements to which the Republic of Moldova is a party, as well as citizens of those countries or their legal successors, enjoy the right of priority, starting on the date the first application is filed, if they petition for issuance of a patent on the same invention or the registration of a utility model within 12 months of that date, and if they petition for registration of an industrial designs or trademark, service mark, appellation of origin within six months of that date.

Solicitation of priority for an object of industrial property in a request for issuance of a protective document may be made on the basis of an application completed as the result of the object's demonstration at an international exhibition taking place on the territory of countries that are parties to international Conventions to which the Republic of Moldova is a party, if the application for issuance of a protective document is filed within six months of the date the object is presented for exhibition.

The six-month term does not extend the period of conventional priority. The priorities stipulated are requested at the same time that the application for protective documents is filed, and are confirmed by documents on priority. If the applicant fails to request priority when he files his application, priority may be requested no later than two months from the date that the application for issuance of protective documents is filed with AGEPI. Documents on priority are filed no later than three months from the date that a correctly formulated national application is filed.

Failure to observe the deadlines indicated will result in the priority requested not being recognized.

Request of priority for an object of industrial property in an application for issuance of a protective document may take place on the basis of an earlier application, if the request for issuance of a protective document was filed within 12 months of the date that the earlier application for issuance of a patent on an invention or for registration of an utility model was filed, and for registration of an industrial design, or marks -within six months of the date that the earlier application for registration of an industrial design, utility model (trademark,

service mark or appellation of origin) was filed. In this case, the earlier application is considered withdrawn.

Priority may be established on the basis of more than one applications filed earlier if each of them observes the priority term stipulated.

Priority cannot be established according to the date of the receipt of an application on the basis of which an earlier priority has been requested.

An application for issuance of a protective document for divizional inventions or utility models retains priority based on the date of the original application, if the divizional application is filed with AGEPI before a final decision on refusal or issuance of the protective document is made.

Priority for a trademark or service mark may be established based on the date of the mark's international registration in compliance with international conventions to which the Republic of Moldova is a party.

41. Within one month of the date that a correctly formulated national application is filed, AGEPI conducts a formal examination of applications for issuance of protective documents for objects of industrial property, in the course of which the following are verified:

- a. compliance of all documents presented with the conditions stipulated in the present Statute;
- b. that no relationship exists between the object claimed and other objects that are receiving legal protection.

AGEPI notifies the applicant either of the application's registration and recognition of priority, or of refusal. If noncompliance with the conditions stipulated by the present Statute is established as a result of an analysis of the materials in an application for issuance of a protective document and its appended documents, the applicant is notified.

Within two months of the day he is notified, the applicant must present explanatory or necessary documents if they were not appended to the application for registration. In this case, the date on which the necessary additional materials are received is recognized as the submission date for the correctly formulated national application. In the case that the indicated deadline is not observed, the application is regarded as withdrawn and is canceled.

On receiving the decision refusing his application, the applicant has the right to file an objection with AGEPI within two months of the notification date. A decision on the objection is made within a month from the day it is received.

An application for a protective document is registered in the National Register of Filed Applications for the corresponding object of industrial property.

42. Information concerning applications for receiving a patent on an invention is published in 18 months, and concerning the registration of utility models, industrial designs and product appellations or origin—six months from the date on which a correctly formulated national application is filed.

Information concerning the author and the applicant, the title and abstract of the invention or utility model, or a representation of the industrial designs are published in the Official Bulletin of Industrial Property. A description, claim and drawings for the invention or utility model and a search report (if one was conducted) are exhibited for general perusal in the AGEPI library.

Publication of information concerning the application does not take place in the following cases:

- a. a decision is made to issue or refuse issuance of a protective document;
- b. the application is withdrawn;
- c. the applicant is petitioning to postpone or refuse, at the author's wish, the application's publication and the extension to it of confidential treatment.

The author has the right to refuse to be mentioned in information published concerning the application.

Any interested party has the right to become familiar with application materials after their publication.

43. Any interested party may file an objection to the issuance of a patent on an invention within six months, and to the registration of a utility model, industrial design, or appellation of origin within three months of the date on which the corresponding application was published.

44. A substantive examination of an application for issuance of a patent on an invention may be demanded by the applicant or any other interested party at the time that the application for issuance of a patent is filed, or within 30 months of the date on which the application is issued. In the case that a petition for conducting an examination of the application is not filed before the deadlines indicated in Paragraph I, the application is considered withdrawn and is refused.

AGEPI has the right to request from the applicant or his legal successor explanations and documents that it considers necessary for a substantive examination, which must be presented with two months of the date on which the applicant receives the request.

The applicant presents all published documents concerning the invention claimed, including copies of patents issued in other countries, to AGEPI.

If the applicant does not present the necessary materials within the indicated period of time, the application is considered withdrawn and is refused.

At the request of AGEPI or on his own initiative, the applicant or his legal successor may make changes in the claim, blueprints or description, without changing the substance of the invention claimed on the date on which the application for issuance of a patent was filed.

If he does not agree with a decision of the Examination Commission, the applicant has the right to file, within three months of the date on which the decision is received, a reasonable objection to the AGEPI's Appeal Commission. The objection must be examined within three months of the date of its receipt.

If the applicant disagrees with a decision of the Appeal Commission, he may appeal in court within three months of the date that he receives it.

45. It is possible that a substantive examination of an application for registration of a utility model or an industrial designs will not take place, and a protective document will be issued with the applicant bearing responsibility.

However, AGEPI will conduct a substantive examination of an application within nine months of its publication based on petitions made by the applicant or any interested party and filed within three months of the date that the application for registration of a utility model or industrial designs is published.

The substantive examination is conducted in compliance with Point 44 of the present Statute.

46. A substantive examination of an application for registration of a trademark is conducted within nine months of the date on which the application is filed, in the course of which the claimed designation's compliance with the conditions of legal protection is verified.

Based on the results of the substantive examination, a decision is made by the Examination Commission to publish the application or to refuse registration of the trademark.

On condition that the applicant has paid the fee, the application is published within three months of the decision to publish. In this case, information concerning the applicant, a representation of the mark including a list of the goods and services for which registration is requested is published in the Official Bulletin of the AGEPI.

If there is a disagreement with a decision of the Examination Commission, it may be protested by the applicant or any interested parties within three months of the day of notification or publication.

A protest is examined within three months of the date of receipt by the Appeal Commission, which makes a decision to issue the appropriate certificate or to refuse registration of a trademark.

In the case of disagreement with the decision of the Appeal Commission, the applicant may bring his complaint to court within three months of the date on which the decision is received.

In the case that there have been no protests or where the protests filed have been declined, AGEPI makes the decision to register the mark in the National Register of Marks, and issues a certificate of the mark's registration to the applicant.

47. Substantive examinations are conducted within nine months on applications for registration of appellations of origin.

Within three months of the day on which a mark is published, interested parties may file a protest with AGEPI in written form concerning the claimed appellation of origin. AGEPI sends it to the applicant, indicating the party that has filed the protest, and grants him two months from the date of notification to provide an answer. When the two-month period has expired, AGEPI makes a decision on the protest and, if there is some basis for the protest, refuses registration of the appellation of origin.

In the case that there has been no protest, or if the protests filed have been declined, AGEPI makes a decision on registration of the appellation of origin in the National Register of Appellations of Origin and issues a certificate of the appellation's registration. Registration of a appellation of origin in the name of one person is not an obstacle to the registration of the same appellation by any other natural or legal person.

48. If an applicant misses the deadlines stipulated in the examination procedure for applications, the deadlines may be reinstated by AGEPI through the confirmation of reasonable cause and payment of an established fee.

Petitions to reinstate a deadline may be filed by the applicant or his legal successor within six months of the date on which the missed deadline ends.

49. After a decision is made to issue a protective document for an object of industrial property, on condition that the applicant has paid the fee for issuance of the protective document, AGEPI publishes that decision in the Official Bulletin of Industrial Property within three months of the date on which the applicant is notified. The content of the information published is determined by AGEPI.

50. After publication of the decision to issue a protective document, AGEPI issues the protective document within three months.

51. An applicant who has filed an earlier application for issuance of a patent on an invention or an application for registration of an industrial model has the right to file an application for registration of a utility model for the same object if its completed design is revealed in the application materials, claiming priority based on the date on which the application for issuance of a patent on an invention or for registration of an industrial model was filed.

He may make use of this right after the three-month period following the date that a decision is taken to refuse an application for issuance of a patent on an invention or an application for registration of an industrial model expires, but not later than four years from the date on which the corresponding application was filed.

The application must indicate the number and date of the application's filing, and present a copy of the application for issuance of a patent on an invention or of the application for registration of an industrial model.

It is possible to transform an application for registration of a utility model into an application for a patent on an invention before a decision is taken on it concerning registration of the utility model. Here, the first application retains its priority.

#### Chapter VI. Rights and Obligations of Owners of Protective Documents and Authors

52. A protective document grants its owner the right to forbid third parties the unsanctioned manufacture, application, import, offering for sale, sale or storage of a product with that goal, the offering for sale or utilization of a product containing the object of industrial property (invention, utility model, industrial drawing or trademark), or the application of a process protected by the patent on the invention.

53. The owner of a patent on an improvement to an invention may utilize the invention only with the approval of the owner of the invention to which the improvement pertains.

54. In the case that an application for an object of industrial property is published, the applicant is provisionally granted the same rights that are granted to the owner of a protective document, starting from the date on which the application is filed, and until a protective document is issued.

If a decision is taken to refuse issuance of a protective document, the applicant cannot make use of the rights provided for in Paragraph I.

After the owner has received the protective document, natural or legal persons utilizing the claimed industrial object during that period pay the owner compensation, the amount of which is determined by an agreement between the parties. In the case that an agreement is not reached between the interested parties, the amount of compensation is determined by legal organs.

55. The following are not regarded as infringements of the exclusive right of the owner of a patent on an invention, utility model or industrial design:

- a. the use of inventions, utility models or industrial designs in the construction or manufacture of any means of automobile, air or marine transport, or of installations necessary for their functioning, that are the property of member states in international conventions on inventions, utility models and industrial designs to which the Republic of Moldova is a party, where those means of transportation are located on the territory of the Republic of Moldova temporarily or accidentally, on the condition that this use occurs exclusively in the service of transportation needs;
- b. the production or application of an invention, utility model, industrial designs exclusively for research purposes;
- c. the one-time preparation of medications according to a doctor's prescriptions in which the invention is utilized;
- d. the private, non-commercial application of substances in which inventions, utility models, industrial drawings or models;
- e. the sale or offering for sale on the territory of the Republic of Moldova of objects of industrial property covered by protective documents if those objects have been introduced earlier into commercial circulation with or without the owner's approval.

56. Before the date of priority for an invention, utility model, industrial design, any person who has utilized a solution created independently of the author of a protected invention, utility model, industrial design, or who has made the necessary preparations for it on the territory of the Republic of Moldova, retains the right to its further uncompensated use, without increasing its volume. The right to utilization may be transferred to another person only jointly with the property or the portion of it in which the use of the identical solution took place.

57. The unsanctioned application by third parties of a mark in an advertisement, in printed publications or on company signs, as well as the import or export, offering for sale, sale or storage with that intent of the product designated by the mark is considered an infringement of the owner's rights of certification for a trademark, service mark or appellation of origin.

The application or imitation of a appellation of origin by other natural or legal persons, even if the product's actual place of origin or appellation is used in combination with such words as "kind," "type," "imitation," or the use of false or untrue appellations of origin with the goal of misleading the public regarding the origin of the product to which it pertains, is not permitted.

58. A protective document for an invention, utility model or industrial designs may be regarded as invalid in whole or in part based on a petition by an interested party if the following cases are established:

- a. the protected object's failure to comply with the conditions of protectability at the date of the application's registration;
- b. the presence in the claim of features that were absent in the original application materials;
- c. inaccurate indication in the protective document of the author or owner.

Petition for annulment of a protective document may be filed during the entire term of its validity.

A protective document for a trademark or service mark may be regarded as invalid in whole or in part based on a petition by an interested party throughout the entire term of its validity if it is established that the mark's registration was carried out in violation of the conditions of protectability.

Objections to the issuance of a protective document, with the exception of the case indicated in Paragraph a, shall be examined by AGEPI within six months of the date of receipt. The owner of the protective document must be notified of the objection within two months of the day of its receipt.

A decision of the AGEPI Appeal Commission may be appealed in court by the parties within six months of the day the decision is taken.

59. Premature lapse of a protective document occurs:

- a. at the owner's request;
- b. if the protective document is invalidated;
- c. if the annual fee for maintaining a patent on an invention in force has not been paid within the prescribed period of time;
- d. if the legal entity-owner of the certificate of registration for the trademark ceases to exist.

AGEPI publishes announcements of the premature lapse of protective documents in the Official Bulletin of Industrial Property.

If the validity of a patent on an invention has been suspended as a result of Point 59, Paragraph a, the patent owner may, with reasonable cause, petition AGEPI for reinstatement of the patent's validity within six months of the day that the decision is published. The decision to reinstate a patent's validity is published in the Official Bulletin of Industrial Property.

The use or adoption of effective and serious measures leading to the utilization of an invention by third parties during the period of time extending from the date of the patent's annulment to the date on which its validity is reinstated is not a violation of patentee's rights. In this case, the invention may also be utilized further in the same volume by third parties and may only be transferred to another person jointly with the property or a part of that property.

60. The owner may refuse a protective document in whole or in part based on a written declaration to AGEPI.

In the cases stipulated in Point 33 of the present Statute, the owner of a protective document is obligated to notify the author of his intention to refuse the protective document. In this case, on the author's demand, the owner is obligated to transfer the rights to the protective document to him based on a contract.

If a protective document is the object of a licensing contract, it can only be refused with the approval of the licensee.

The object or the part of it for which protection has been refused may be utilized freely by third parties.

Refusal of a protective document comes into force from the date that the declaration of refusal is registered with AGEPI.

61. Annulled collective marks cannot be utilized for three years after the date on which the rights to the trademark were annulled, with the exception of their utilization by a person owning earlier acquired rights to a similar individual mark.

62. An annulled protectable certification mark may be filed and utilized only upon expiration of the ten-year period beginning on the day of its annulment.

63. A list of the articles, jobs or services for which the mark is registered may be abbreviated by AGEPI on request of the owner of the mark. The list may also be abbreviated based on a petition by interested parties or by AGEPI, as the result of a final decision.

The addition of a new article or new type of service or job to the list, or the replacement of existing jobs or services, takes place exclusively through the filing of new applications.

64. Owners of protective documents must communicate to AGEPI any changes in information concerning objects of industrial property. Any change will be in force only from the moment of its registration in the National Register and its publication in the Official Bulletin of Industrial Property.

65. Owners of certificates of registration for industrial designs may affix the symbol "D" to the article, which corresponds to the capital letter "D," written inside a circle or accompanied by the owner's name or the number of the certificate.

Next to the mark, the owner of a certificate of registration for a trademark or appellation of origin may affix the symbol "R", which corresponds to the capital letter "R," written inside a circle next to the mark, and indicating that the given appellation is a mark registered in the Republic of Moldova.

The owner of a certificate of registration or appellation of origin may place the phrase "appellation of origin is registered and verified" on articles or documentation.

The absence of a marking mark has no legal consequences.

66. The author has the right to demand that his name and title be indicated in the protective document, work book, or any other documents and publications concerning his object of industrial property.

67. The author's property rights are determined on the basis of a contract with the owner of the protective document.

68. The patenting in foreign countries of objects of industrial property created by natural or legal persons on the territory of the Republic of Moldova takes place no earlier than three months after the application is filed. The applicant must notify AGEPI of patenting abroad.

69. Legal protection for objects of industrial property regarded as secret takes place in compliance with the instructions of a special statute.

70. A fee is levied for actions related to the registration, publication or examination of applications for issuance of protective documents, requests for priority, the issuance of protective documents and for maintaining them in force. The amount and payment schedule for fees are provided for in an appendix to the present Statute.

Throughout the entire term of validity of the protective document, the owner is obligated to pay an annual fee for maintaining the protective document in force. Failure to make payment will result in annulment of the protective document. Information concerning annulment of the protective document is published. Foreign natural and legal entities are required to make payment in hard currency.

71. A document confirming the applicant's right to registration of a appellation of origin or permitting the use of a trademark with the name of an enterprise, organization or administrative-territorial units, state symbols of the Republic of Moldova, copies or imitations of seals, flags, orders, medals, emblems or marks of excellence, official marker marks or control, guarantee or assay marks is issued to the applicant by competent organs on a contractual basis.

#### Chapter VII. Transfer of Rights to Objects of Industrial Property

72. The right to acquire a protective document, the right to ownership of a protective document, the rights ensuing from an application for issuance of a protective document, as well as the rights ensuing from a protective document may be transferred in whole or in part.

A transfer may take place due to a relinquishment of rights or based on a contract concerning the grant of an exclusive, non-exclusive or compulsory license, or through legal inheritance or bequest.

Regarding third parties, a transfer of rights comes into force starting from the date of its registration with AGEPI.

73. Collective marks cannot be transferred, and persons not authorized by an association or union cannot use them.

74. The rights to a certification mark cannot be transferred by the legal entities-owners of the mark, except in the case of their liquidation.

75. Transfer of the right to a appellation of origin may only take place jointly with the geographical zone of action or of the portion of it that is the object of registration.

76. A party who has acquired the right to a trademark as the result of its relinquishment is obligated to guarantee that the quality of the article and types of jobs or services to which the mark applies be maintained.

77. On the expiration of the four-year period starting from the date that a protective document for an invention, industrial drawing or sample or utility model is issued, a compulsory license is granted according to required procedure in response to petitions made by any interested party.

These statutes are applied only in the case that the object protected by the protective document is not utilized or is under-utilized on the territory of the Republic of Moldova, and where the owner cannot justify his failure to take action and does not give his approval for a transfer of rights.

A compulsory license is non-exclusive, and is granted with a determination of conditions concerning the schedule and sizes of payments and the authors' material rights.

In the case that it is discovered that a licensee has not fulfilled his obligations to utilize an object protected by a protective document according to the conditions stipulated, the compulsory license may be annulled on petition of the patent owner.

78. In response to petitions made by the competent ministry, in the interests of national defense or security, the Government of the Republic of Moldova grants official licenses for the utilization of inventions that are the objects of applications for issuance of a patent or of patents that have been issued.

These licenses are granted directly to the competent ministry or enterprise within that ministry that would utilize the inventions.



## Chapter VIII. Protection Provided of Owners' and Authors' Rights Through Protective Documents

79. Information provided in an application for issuance of a protective document is confidential, and its disclosure without the applicant's (author's) approval is forbidden.

Disputes concerning authorship, the establishment of ownership or other rights deriving from protective documents, the relinquishment of rights or licenses for the utilization of objects of industrial property, violation of the right of prior use or of the procedure for payment of compensation to an author are examined by judicial organs in compliance with current law.

80. Based on the decision of a court establishing that a protective document has been issued to a party who is not authorized to receive a protective document for objects of industrial property, AGEPI issues a protective document to an authorized party and publishes information concerning the change in ownership of the protective document.

81. Unlawful disclosure of information used in application materials for issuance of protective documents for objects of industrial property before their publication by AGEPI personnel or by persons engaged in work pertaining to the issuance of protective documents will result in punishment under current law.

82. Unlawful use in any form of a protected object of industrial property is considered a violation. At the request of the owner of a protective document, unlawful use of an object of industrial property by third parties must be terminated in compliance with current law.

## Chapter IX. Transitional Statutes

83. Based on applications for issuance of patents or authors' certificates for inventions, industrial drawings or models, concerning which no decisions had been taken on the issuance of protective documents by October 14, 1992, applicants and authors may file applications with AGEPI for issuance of protective documents by the Republic of Moldova, with originally filed applications retaining priority.

Authors' certificates for inventions, industrial designs filed before October 14, 1992, have the term of validity provided for by the legislation that was current on their filing dates, while authors have the right to compensation in compliance with the normative documents that are current on the date of the present Statute's ratification.

Applications are filed with AGEPI in compliance with Point 39 within 12 months of the date on which the present Statute comes into force.

Applications filed within the time periods indicated are examined according to the procedure established by the present Statute, in compliance with conditions concerning the patentability of the invention, industrial designs that are stipulated in the legislation that is current on the filing date of the first application.

The following are appended to the application:

- a notarized copy of the first application (one copy);
- a notarized copy of notification (of priority) (one copy); documentation of payment of fees;
- a notarized copy of a certificate of the right of inheritance (where necessary).

84. Based on patents or authors' certificates for inventions and industrial drawings or models, as well as on decisions taken on the issuance of protective documents before October 14, 1992, applicants, as well as authors, are granted the right to petition for issuance of protective documents of the Republic of Moldova with retention of priority based on the applications originally filed. The right to those protective documents in the Republic of Moldova will be valid from the date on which the petition is filed with AGEPI and before the end of the term provided for in the legislation current on the date the protective document is issued, or on the date that a positive decision adopted is by the appropriate government department.

A petition must be filed:

- a. concerning patents and decisions on the issuance of patents or certificates within 12 months of the date on which the present Statute comes into force;
- b. concerning authors' certificates for inventions, certificates for industrial designs up to the end of their term of validity.

Petitions are filed in Romanian. They must apply to one protective document and contain:

- a. for each patent on an invention or certificate for an industrial designs or decision on their issuance:
  - the number of the patent issued by the appropriate government department;
  - the number of the original application;
  - the original application's filing date; information concerning the natural or legal person (patent owner);
  - the name of the object of industrial property; information concerning the authors; indication of the parties authorized to receive a protective document if there is more than one author; information concerning the patent attorney (if necessary);
- b. for each author's certificate for an invention or certificate for an industrial designs or decision on their issuance: the number of the protective document; the number of the original application; the original application's filing date; information concerning the applicant; the name of the object of industrial property; information concerning the natural or legal person in whose name the document is requested, and confirmation of that party's agreement to receive the protective document; indication of the applicant authorized to receive a protective document; information concerning the authors; information concerning the patent attorney (if necessary).

The following are appended to the petition:

- three notarized copies of the protective document or the decision on issuance of a protective document with a description of the invention (for an invention); the claim for the invention and a synopsis in Romanian in three copies (for an invention);
- a document confirming payment of the fees for filing a petition;
- a notarized copy of documentation of the right of inheritance (if necessary).

The petition is signed by the applicant. If the applicant is a legal person, the signature is certified by a stamp.

85. Certificates for trademarks registered before October 14, 1992, give applicants the right to petition for registration of marks in the Republic of Moldova, retaining priority based on the applications filed originally. Certificates of the Republic of Moldova for trademarks will be valid for the remaining term of their validity from the date that the petition is filed at AGEPI and until the end of the term provided for by the law current valid on the date of the certificate's issuance, on the condition that the established fees are paid on time.

An application for registration of a trademark or service mark of the Republic of Moldova must be filed within 12 months of the date on which the present Statute comes into force.

The application is filed in Romanian.

The application must apply only to one protective document and must contain:

- the number of the certificate for the trademark;
- the number of the original application;
- the filing date of the original application;
- the expiration date for the trademark registration's term of validity;
- information concerning the owner of the trademark.

The application is signed by the owner of the mark. If the owner of the mark is a legal person, the signature of the owner is satisfied by a stamp.

The following are appended to the application:  
two notarized copies of the trademark certificate;  
ten 75 X 75 mm photographs or typographic reprints or  
ten full-sized labels;  
a document confirming payment of the application filing  
fee;  
a document confirming legal succession (if necessary);  
a copy of the certificate of inheritance rights (if necessary);  
an extract from the collective mark's charter containing the  
name of the association legally authorized to register the  
collective mark in its name;  
a list of the enterprises possessing the right to utilize the  
collective mark;  
a list of goods, services and classes complying with the international classification of goods and services in  
Romanian.

86. Based on applications for the registration of trademarks and service marks filed before October 14, 1992, that have not been fully processed, applicants are granted the right to file applications with AGEPI for registration of a trademark or service mark retaining priority based on the originally filed application. These applications are processed in accordance with the present Statute.

Applications are filed in Romanian.

The following are appended to each application:  
a notarized copy of the original application (one copy);  
ten photocopies or typographic reprints illustrating the  
trademark;  
a priority certificate (one copy);  
documentation showing payment of the fee for filing an  
application and verifying examination.

87. Applications undergo formal examination within one month of their filing dates.

The decision to issue a patent or to register an object of industrial property based on a petition, or to decline a petition, is made within six months of the date of the petition's filing. The decision may be disputed according to the procedure established by the present Statute. Decisions to issue patents or register objects of industrial property are added to the National Register, and within three months from the day on which the applicant is notified of this, they are published in the Official Bulletin of Industrial Property.

Patents, for which petitions for issuance of the appropriate protective documents of the Republic of Moldova are not filed within 12 months of the moment on which the present Statute comes into force, are considered invalid starting August 27, 1991.

88. Protective documents for inventions and industrial designs on the territory of the Republic of Moldova may be annulled in the case that the protected object does not comply with the conditions of patentability stated in the legislation current on the application's filing date.

89. Applicants who have filed applications or petitions for issuance of a protective document of the Republic of Moldova based on applications regarding which decisions are taken on the issuance of protective documents or for which protective documents have been issued before the present Statute comes into force pay the established fees for filing petitions, for examinations of applications, for publication of the decision to issue and for issuance of the protective document.

90. Enterprises retain the right, without concluding a licensed agreement, to the further utilization of an invention or industrial designs for which author's certificates or certificates of registration were filed before the filing of a petition for issuance of a protective document of the Republic of Moldova. Compensation paid to

the author (authors) is established in a contract concluded between the author (authors) and the appropriate enterprise.

If the parties have not reached an agreement on the cost of the contract, it is established by court.

91. The deadlines for examinations of applications for issuance of protective documents of the Republic of Moldova filed with AGEPI in the period from January 4, 1993 to the date on which the present Statute comes into force are calculated from the moment on which the present Statute comes into force.

The statutes mentioned in Points 83-90 apply to filed applications for protective documents issued by Goskomizobreteniye and Rospatent.

#### Chapter X. Fees

92. Fees shall be levied, the amounts and terms of payment for which are quoted in an appendix to the present Statute, for actions connected with the protection of industrial property.

Fees are paid to the AGEPI account in cash or by transfer.

The fees paid to AGEPI are transferred to the republic budget in accordance with instructions from the Ministry of Finances.

93. Foreign natural and legal persons make payment in convertible currency (U.S. dollars).

94. A portion of the annual incomes, including hard currency, in the amount of 40% may be utilized by AGEPI for technical equipment, the creation of an information database and personnel training.

The amount of annual deductions allotted for that purpose in AGEPI's account is established by the law on the budget, while the procedure for accumulating and utilizing the funds indicated in Paragraph I is established by special instruction from the Ministry of Finances.

95. Natural persons who are applicants or owners of protective documents on inventions, utility models, industrial drawings or models, whose annual gross income does not exceed 36 minimum wage salaries (established on the application's filing date) and who have not transferred the right to utilization of the object of industrial property pay 10% of the sum of the current fees. When annual income rises above the established amount or the status of the document changes, natural persons pay the full sum of the current fees and make up the difference on fees paid earlier within 12 months of the date that the situation changes or of the beginning of the object's utilization.

96. Applicants (authors of inventions, utility models, Industrial Designs) who are attending school, who are college students, emergency servicemen (rank-and-file and sergeants), both individual persons and authors' collective consisting of persons in the indicated categories, as long as they fit into the indicated categories are freed from payment of fees for necessary procedures for the period in which they apply to the indicated categories. In the case that the situations of those natural persons change or starting from the day on which utilization of the object of industrial property begins, they pay the current fees in the full amount, and within 12 months of the date on which the situation changes or on which utilization of the object of industrial property begins they make payment on fees that were not paid earlier.

97. Organizations, enterprises and institutions financed by the state budget, as well as legal persons whose annual gross profit per employee does not exceed 36 minimum wages (established at the moment of the application's filing) and who have not transferred the right to utilization of industrial property, pay 50% of the sum of current fees. In the case that the rights to utilization have been transferred or that annual profit rises above the indicated sum, they pay current fees in full, and, in addition, make up the difference on fees paid earlier within 12 months of the date of their change of status.

The privileges indicated in Points 95, 96 and 97 of Paragraph I of the present Statute concerning payment of fees are not granted if an agreement is concluded on the change of status of the application for issuance of a protective document or of the protective document.

Registration of a contract concerning the transfer of rights to a protective document takes place after the differences in fees paid earlier are settled.

98. Failure to make payment in the amounts indicated and according to the terms indicated results in the applicant's loss of the right to receive a protective document, or in the patent owner's loss of the right to a protective document.

Notification of deprivation of rights is registered in AGEPI and published in the Official Bulletin of Industrial Property.

99. The fee for issuance of a protective document, the publication of applications for issuance of protective documents and descriptions of an object of industrial property is paid within three months of the date on which notification is made of AGEPI's decision.

100. The following are subject to payment of a fee for maintaining the validity of protective documents:

a. patents on inventions-starting from the filing date for the application for an invention, including the year in which the patent is issued, and is paid within three months of the date on which notification of the decision to issue the patent is made.

For the years following the year in which a patent is issued on an invention, fees for maintaining it in force are paid before the first day of each year of protection;

b. certificates of registration for an industrial design, utility model, trademark, service mark or appellation of origin-for the first 10 years at the time of the application's filing or within three months of the date on which notification is made of the decision to register the object of industrial property.

For the five subsequent years the fee for maintaining the certificate of registration in force is paid at the time that the petition for extending the term of protection is filed.

101. The fee for the issuance and maintenance in force of a protective document may be paid within six months of the last day of the missed deadline with an addition of 50%.

For the conduct of any procedure in an emergent fashion, the fee is increased by two times.

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