

Decision on Patents and Petty Patents

SECTION I	1
General Provisions	1
Article 1. Objective.	1
Article 2. Competent Authority.	1
Article 3. Definitions.	2
Article 4. Protection Available; International Agreements	5
Article 5. Inventions and Utility Innovations Eligible for Protection	5
Article 6. Persons Eligible for Protection.	6
Article 7. Language.	6
SECTION II	6
Application Procedures	7
Article 8. Initial Procedures; Filing Date.	7
Article 9. General Requirements Relating to Applications.	8
Article 10. Examination for Formal Requirements.	8
Article 11. Substantive Examination Requirement.	8
Article 12. Amendment During Examination.	9
Article 13. Grant of Patent or Petty Patent; Publication.	9
Article 14. Invalidity and Cancellation.	9
SECTION III	9
Application Requirements	9
Article 15. Minimum Requirements for Filing Date; Provisional Acceptance of Application.	9
Article 16. Application Requirements.	10
Article 17. Specification	11
Article 18. Drawings.	12
Article 19. Detailed Description; Disclosure Requirements.	12
Article 20. Claims.	14
Article 21. Abstract.	15
Article 22. Other Disclosure Requirements.	15
SECTION IV	16
Priority and Temporary Protection	16
Article 23. Priority	16
Article 24. Temporary Protection at Certain International Exhibitions	18
SECTION V	18
Formalities Examination	18
Article 25. Examination for Formalities.	19
Article 26. Application to Relate to One Invention or Utility Innovation; Unity of Invention.	19
Article 27. Division.	19
Article 28. Re-Filing; New Material; Amendment and Re-Filing to Claim Correct Form of Protection.	20
SECTION VI	20
Substantive Examination	20
Article 29. Search and Substantive Examination.	20

Article 30. Search and Examination Reports. _____	21
Article 31. Amendment During Examination. _____	22
Article 32. New Technical Information. _____	23
Article 33. Information Not Considered to Be New Technical Information. _____	23
Article 34. Refusal Based on False or Misleading Statements. _____	23
Article 35. Persons Entitled to File; Effect of Filing. _____	23
Article 36. Inventorship; How Determined. _____	24
Article 37. Evaluating Novelty. _____	25
Article 38. Evaluating Inventive Step. _____	26
Article 39. Evaluating Industrial Applicability. _____	27
Article 40. Right to Require Additional Information. _____	27
Article 41. Abandonment of Application. _____	28
Article 42. Publication. _____	28
SECTION VII _____	29
<i>Rights and Obligations</i> _____	29
Article 43. General Rights. _____	29
Article 44. Enjoyment of Benefits from Exploitation. _____	29
Article 45. Scope of Rights of Exploitation. _____	29
SECTION VIII _____	30
<i>Term, Invalidity, and Post-Grant Procedures</i> _____	30
Article 46. Term; Fees to Ensure Full Term. _____	30
Article 47. Provisional Protection. _____	30
Article 48. Invalidity and Cancellation Requirements. _____	31
Article 49. Administrative Cancellation Based on False or Misleading Information. _____	32
Article 50. Authorization to Exploit Without Permission of Patent or Petty Patent Owner. _____	32
Article 51. <i>Inter Partes</i> Procedures for License without Authorization of Patent or Petty Patent Owner. _____	33
SECTION IX _____	34
<i>Administrative and Judicial Review</i> _____	34
Article 52. Preventing and Correcting Mistakes. _____	34
Article 53. Administrative Review: How Initiated. _____	35
Article 54. Request to Stay. _____	35
Article 55. Reconsideration. _____	35
Article 56. Board of Appeals. _____	36
Article 57. Appeal Procedures. _____	36
Article 58. Further Appeals. _____	37
Article 59. Incorrectly Named Inventors or Designers; Capacity of Applicant. _____	37
Article 60. Files or Papers that Cannot Be Located. _____	38
SECTION X _____	38
<i>Transfer of Rights and Resolution of Disputes</i> _____	38
Article 61. Transfer of rights; recordation required. _____	38
Article 62. Licenses. _____	39
Article 63. Resolution of Disputes. _____	39
Section XI. Representation _____	39
Article 64. Persons Authorized to Appear before the Department. _____	40
Article 65. Appointment of Representative. _____	40
Article 66. Power of Attorney. _____	40
Article 67. Requirements for Giving Effect to Power of Attorney. _____	41
Article 68. Power of Attorney for Multiple Matters. _____	42
Article 69. Power of Attorney: When Presented; Effect of Failure to File. _____	42
Article 70. Termination of Representation. _____	42

Article 71. Persons Authorized to Act as Representatives Before the Department. _____	43
Article 72. Registration Required; Practitioner List Published. _____	43
Article 73. Implementation. _____	44
Article 74. Continued Requirements for Practitioners and Patent Practitioners. _____	44
SECTION XII _____	44
Administrative Provisions _____	44
Article 75. Secrecy and Access to Files. _____	44
Article 76. Communication with the Department. _____	45
Article 77. Identification of Documents. _____	45
Article 78. Form of Correspondence. _____	46
Article 79. Documents to be Signed; Effect of Signature. _____	46
Article 80. Times for Taking Action; Expiration on Saturday, Sunday or National Holiday. _____	47
Section XIII _____	48
Registration and Service Fees _____	48
Article 81. _____	48
SECTION XIV _____	48
Final Provisions _____	48
Article 82. Implementation. _____	48
Article 83. Effective Date. _____	48



LAO PEOPLE'S DEMOCRATIC REPUBLIC
Peace Independence Democracy Unity Prosperity

Ministry of Science and Technology

No.
Vientiane,

/MOST
, 2012

Decision on Patents and Petty Patents

-Based on Law No.01/NA dated December 20, 2011 on Intellectual Property;

-Based on requirements for interpretation of this Law; and

-Based on the proposal of the Intellectual Property Department;

The Minister of Science and Technology issues the following Decision:

SECTION I General Provisions

Article 1. Objective.

This Decision implements the Law on Intellectual Property and provides procedures relating to patents and petty patents and uniformly sets up the rules relating to the filing applications for patents and petty patents throughout the Lao People's Democratic Republic.

Article 2. Competent Authority.

1. The Department of the Department of Intellectual Property in the Ministry of Science and Technology shall be the competent authority for determining whether an application for protection of an invention or utility innovation meets the legal requirements set forth in the Intellectual Property Law and this Decision. The Department shall have such other duties as may be provided by Law or Decision.

2. The Department shall maintain the record book on inventions and utility innovations. Records defined in this Decision shall be recorded in those record books.

3. The Department shall publish in the official industrial property gazette information as defined in this Decision. An official industrial property gazette may be established separately for each type of intellectual property if necessary.

4. In carrying out its responsibilities, the Department shall have the authority to take such actions as may be required to prevent or correct mistakes on matters within its responsibility, and to ensure the orderly operations of the Department, and to grant extensions of time in appropriate cases, provided all such actions are consistent with the Intellectual Property Law and this Decision and with any international agreement or convention to which the Lao PDR is a party.

5. The Department shall appoint a Board of Appeals and such other administrative boards or committees as may be needed to implement the Intellectual Property Law and this Decision.

6. All situations not specifically provided for in this decision will be decided in accordance with the merits of each situation by or under the authority of the Director-General, subject to such other requirements as may be imposed and such decision will be communicated to the interested parties in writing. In an extraordinary situation, when justice requires, any requirement of this Decision which is not a requirement of the Intellectual Property Law or other applicable Law may be suspended or waived by the Director-General or the Director-General's designee, on such person's own initiative, or on request of the interested party, subject to such other requirements as may be imposed.

Article 3. Definitions.

In addition to definitions defined in Article 3 of the Law on Intellectual Property No.. 01/NA dated December 20, 2011, for purposes of the Intellectual Property Law and this Decision, the following terms shall have the meanings given below, unless the context otherwise requires:

Applicant means a person, group of persons, or legal entity that has applied to obtain a patent or petty patent, or such person's successor in interest; in the context of a request for authorization for a license without authorization from the owner, the person, group of persons, or legal entity making such a request; or in the context of an application for cancellation, the person, group of persons, or legal entity that has applied for the cancellation, or such person's successor in interest.

Application means a request for a patent or petty patent; a request for a license without authorization of the owner; or a request to cancel all or part of a patent or petty patent.

Assign means to transfer all rights in an item of intellectual property to another person. The person who makes the transfer is the **assignor** and the person who receives the rights is the **assignee**.

Assignment means the legal document by which an assignment is made.

Class means, in the context of patents and petty patents, the class of the International Patent Classification.

Commercial purpose, as used in the Intellectual Property Law, means that an act is carried out to receive money or any other thing of value or that an act is carried out in connection with an

undertaking to increase the value or profitability of the undertaking.

Court means

- 1) for purposes of filing a civil action to enforce intellectual property rights, the Commercial Chamber of a regional court, provincial court, or capital court, where the right holder of the intellectual property rights may file in accordance with the Lao Law on Civil Procedure.
- 2) for purposes of appealing any decision related to enforcement of intellectual property rights, the relevant Appeals Court or People's Supreme Court where an appeal has been filed in accordance with the Law on Civil Procedure.
- 3) for purposes of filing an administrative appeal from a holding of the Industrial Property Department or one of its units, the Commercial Chamber of the capital court.

Department means the Department of Intellectual Property of the Ministry of Science and Technology.

Director General refers to the Director General of the Department of Intellectual Property.

Divide or division, in the context of an action with regard to an application, means a procedure by which the applicant converts a single application into two or more applications, each of which relates to a portion of the original application. A **divisional application** is an application that results from such procedure.

Effective filing date means, for purposes of examination or for determining novelty or inventive step, or for determining with of two or more applicants is entitled to receive a patent or petty patent, the earlier of an application's actual filing date in the Lao PDR; its priority date or date of temporary protection based on the display of goods at an internationally recognized exhibition, as applicable; or where an application is a divisional application or is otherwise entitled to the filing date of an earlier application, such filing date, priority date, or date of exhibition of such earlier application, as applicable.

Enabling disclosure of an invention or utility innovation means the presentation of technical information and, if appropriate, drawings, about the invention or utility innovation in such full and sufficient detail as to enable another person of ordinary skill in the relevant field of technology to put the invention or utility innovation into practice without additional research or experimentation.

Independent inventor means a natural person who has made an invention or utility innovation, where such item was not made under conditions that vest rights in another person, and such inventor has not assigned rights to such invention or utility innovation, and is under no obligation to make such an assignment.

Individual means a natural person.

Legal entity or organization means an entity of a type that is legally recognized to transact business in the place of its origin and includes a company, state or governmental entity, association or collective organization, or other legal person.

International application means an international application for patent filed under the Patent Cooperation Treaty prior to entering national processing as provided in the Patent Cooperation Treaty.

Inventor means the natural person or group of persons who, individually or jointly, discovered or invented the invention or utility innovation that is the subject of an application for a patent or petty patent.

An invention or utility innovation is **made** when the inventor or inventors has a sufficiently detailed conception of the invention or utility innovation to provide an enabling disclosure of the invention or utility innovation.

License means an agreement granting permission to carry out one of the exclusive rights of an intellectual property owner and includes an agreement not to bring legal action against the person receiving the license for such acts provided they are consistent with the terms of the agreement.

Licensee means the person or persons to whom the intellectual property owner grants a license.

Licensor means a person who grants a license.

Minister refers to the Minister of Science and Technology.

National application means an application filed directly with the Department or which entered the national stage from an international application.

Paris Convention means the Paris Convention for the Protection of Industrial Property.

Patent Practitioner means a person specially authorized to prepare original patent or petty patent applications and to serve as a practitioner for patent and petty patent applications or other proceedings before the Department.

Power of attorney means a written document by which a principal authorizes one or more persons to act on his or her behalf.

Practitioner means an attorney or agent who regularly engages in practice before the Department.

Principal means a person who executes a power of attorney designating one or more persons to act on his or her behalf in connection with an application or other proceedings before the Department.

Prosecution refers to all acts intended to lead to the allowance of an application.

Regular national filing means any filing that is adequate to establish the date on which an application was filed in the country concerned, whatever may be the subsequent fate of the application.

Representation Address means the correspondence address for all practitioners authorized in a single power of attorney.

Representative means an attorney or agent who is authorized to represent an applicant or intellectual property owner or other person with regard to one or more proceedings before the

Department.

Restrict or **restriction** in the context of an application refers to an action limiting the subject matter of the application.

Revoke means, in connection with a Power of Attorney, the cancellation by the principal of the authority previously given to a practitioner or other person to act on behalf of the principal.

The terms **holder** or **owner**, or **rights holder** or **rights owner**, as appropriate, are used interchangeably to refer to the person who has been granted a patent or petty patent, or who is legally entitled to rights in an invention or utility innovation without regard to whether a patent or petty patent has been granted thereon, or to such person's assignee or successor in interest or other person who has received such rights by law.

Specification refers to the portion of a patent or petty patent or application therefor that describes the invention or utility application in words, together with other information useful in understanding the invention or utility innovation.

Article 4. Protection Available; International Agreements.

1. Protection for any invention or utility innovation shall be available in accordance with the Intellectual Property Law and procedures set forth in this Decision.
2. In case of any conflict between the provisions of this Decision and those of any treaty or international agreement to which the Lao PDR is a party or has mutually signed, the provisions of the international treaties or agreements shall be implemented.
3. Requirements in connection with international applications shall be as provided in this Decision except as otherwise provided under the Patent Cooperation Treaty and its Regulations.

Article 5. Inventions and Utility Innovations Eligible for Protection

Every invention is eligible for protection by a patent if it is consistent with Article 13 of the Law on Intellectual Property and is not ineligible for protection under Article 21 of the Law on Intellectual Property.

Every utility innovation is eligible for protection as a petty patent if it is consistent with Article 14 of the Law on Intellectual Property and is not ineligible for protection under Article 21 of the Law on Intellectual Property.

For the purpose of this Decision, an invention or utility innovation refers to an idea of an inventor which can be applied to a technological field to resolve a specific problem. There is no specific requirement as to the form of an invention or utility innovation, which may be, for example, a product, process, composition of matter, chemical compound, or any other invention or utility innovation that satisfies the requirements for protection under the Intellectual Property Law and this Decision.

Article 6. Persons Eligible for Protection.

1. The persons described in Article 26 of the Intellectual Property Law are eligible to obtain protection for their inventions or utility innovations, and to file an application for a patent or petty patent as applicable, to enforce their rights administratively or through the courts, and to undertake any other actions pursuant to the Law on Intellectual Property or this Decision, subject, however, to paragraph 2 of this article.

2. An applicant without business premises or residence in the Lao PDR shall appoint a representative in the Lao PDR in accordance with the requirements of this Decision.

Article 7. Language.

1. An application for a patent or petty patent and any accompanying material, may be filed in either the Lao language or in the English language. Such filing will be sufficient to establish a filing date or date of submission for the application or other materials, provided however, that for any application or document filed or submitted in English, the applicant must, within 90 days of such filing or submission, supply a translation into the Lao language. Such translation must be certified to be a correct translation as provided below.

2. Application forms for patents are available in the Lao and English languages. An application shall be deemed to comply with the language requirements of Article 37 of the Intellectual Property Law where the application is made on the relevant form, provided that documents that accompany the application form must satisfy the language requirements of this article. The Department may apply the same provision to any other standard form.

3. Any other correspondence with the Department and accompanying material shall be in the Lao language or the English language, provided that where correspondence is submitted in the English language, a translation into the Lao language shall be submitted within 90 days of the submission, or not less than 30 days from notification by the Department to supply a Lao translation, whichever period is longer. For correspondence and documents submitted under this paragraph, the Department shall have the authority to grant extensions of time in appropriate circumstances and on such conditions as may be determined by the Department.

4. Each translation shall be certified by the translator, or by another person who has personally reviewed the translation, to be a true and correct translation of the translated document.

5. Where a translation is unclear or otherwise inadequate for the purposes for which the document is submitted, or where the Department reasonably believes that the translation does not correctly represent the original, the Department may require a second translation, at applicant's expense. Where such translation relates to scientific or technical terms, the Department may require that the second translation be conducted by a person with technical knowledge in the relevant technical field. Where translation would lead to confusion or be unhelpful, the Department may waive the translation with regard to specific portions of a document, such as names of persons, organizations, trade names or trademarks, technical terms, or street names that would not be readily recognizable in translation.

SECTION II

Application Procedures

Article 8. Initial Procedures; Filing Date.

1. Any person who is eligible for protection as described in Article 6 of this Decision, and who is entitled to file an application as described in Article 35 of this Decision, and who wishes to obtain a patent or petty patent may file an application with the Department on the prescribed forms following the procedures described below.

2. An application is filed by presenting to the Department a copy of the application, together with any required documents. The Department will conduct an initial review of the papers submitted to determine the nature of the application being submitted and whether the papers contain all of the documents required for the relevant application.

3. If the Department finds that the papers contain all of the required documents, or that it meets the minimum requirements for obtaining a filing date, as described in this Decision, the Department will provisionally accept the application for filing, issue a filing number, and provide the applicant or the applicant's representative with a filing receipt that shows the name and address of the applicant and applicant's representative if applicable; the nature of the application, that is, whether it is an application for a patent or petty patent, and the title of the subject of the application; date of submission; and the filing number.

4. Where the procedures of paragraph 3 of this article have been completed, the applicant or applicant's representative shall present the receipt to the Finance Division under the Cabinet of the Ministry of Science and Technology and pay the applicable fee in accordance with the Presidential Decree on Fees. The Finance Division shall accept the fee and issue a receipt showing payment of the fee, the date and amount paid, and other information sufficient to associate the fee payment with the application and its filing number. It is the responsibility of the applicant to ensure that the proper fees are paid, as no refunds will be made for an applicant where filing procedures are not completed or where the applicant mistakenly pays a fee in an incorrect amount.

5. If the Department finds that some of the minimum elements required for a filing date are missing, the Department will immediately notify the applicant or applicant's representative in writing to supply the missing items. The procedures of paragraph 2 of this article will be suspended until applicant submits the missing items. When such items are submitted, the Department will issue the receipt provided in paragraph 2 as of the date that it receives all of the items that constitute the minimum requirements for a filing date.

If applicant fails to submit the missing items within 90 days, the application will be considered to be abandoned, without prejudice to applicant's right to re-file.

6. Once fees have been paid in accordance with paragraph 3 of this article, the applicant or applicant's representative shall present the fee receipt from the Finance Division to the Department, which shall accord a filing date to the application.

7. An application that is accorded a filing date and serial number must also meet other requirements prescribed by Intellectual Property Law and this Decision. It is the applicant's responsibility to ensure that an application complies with all requirements for protection.

Article 9. General Requirements Relating to Applications.

1. To receive a patent or petty patent, the applicant, the application, and its subject matter must satisfy all requirements of the Intellectual Property Law and of this Decision.
2. The Department will not issue advisory opinions regarding the likelihood that a particular patent or petty patent or application therefor will satisfy the requirements of the Intellectual Property Law and this Decision, and the Department will not provide legal advice to applicants. However, the Department will perform a search of previously registered patents and petty patents upon request and subject to the payment of the relevant fee. An applicant who wishes to obtain information relevant to the likelihood of being able to obtain a patent or petty patent is advised to obtain a search prior to filing and to consult an attorney or other representative regarding issues relevant to patentability.
3. As provided in Article 28 of the Intellectual Property Law, where more than one application is filed for the same subject matter, the patent or petty patent, as applicable, shall be awarded on the basis of the application with the earliest effective filing date, provided such application otherwise satisfies the requirements for the protection requested.
4. Where more than one application is filed for the same or a similar invention or utility innovation, the Department will continue procedures for both applications until it is determined whether the application with the earlier effective filing date will be registered, at which time the Department will issue a refusal to the application with the later effective filing date on the basis of the registration of the application with the earlier effective filing date. If procedures for the application with the later effective filing date are completed before that time and it appears that such application is otherwise entitled to registration, the Department shall suspend procedures on such application until procedures are completed for the application with the earlier effective filing date.

Article 10. Examination for Formal Requirements.

1. An application that has been received and accorded a filing date as described in Article 15 of this Decision shall be examined to determine whether it is complete and complies with all formal requirements.
2. If the application is not complete or does not satisfy the formal requirements as described herein, the Department will notify the applicant of any requirements not satisfied and the period of time in which the applicant must meet the requirements.
3. If formal requirements are supplied to the Department within the time provided, the application will be accepted for substantive examination. If formal requirements are not satisfied within 60 days, the applicant will be advised that the application is considered to be abandoned.

Article 11. Substantive Examination Requirement.

1. An application for a patent or petty patent that has satisfied formal requirements shall be subject to substantive examination to determine whether the application meets the

requirements for protection set forth in the Intellectual Property Law.

2. The Department shall conduct a substantive evaluation of the application in accordance with the relevant provisions of the Intellectual Property Law and this Decision and shall notify the applicant of any conditions, objections, or grounds for refusal of part or all of the rights for which the applicant has applied, or any conditions or restrictions thereon. The applicant will be given an opportunity to respond and, subject to any limitations provided in this Decision, to amend the application or provide supplementary information to respond to the communications from the Department. The Department may require additional information as needed. If the applicant fails to comply with this provision within 60 days from such notification, the application will be deemed to be abandoned, provided however that the Department may extend the time for complying with this provision for good cause shown by the applicant.

Article 12. Amendment During Examination.

At any time an application is pending before the Department but before the Department has granted a patent or petty patent, and before the abandonment, final rejection, or other termination of proceedings on the application, the applicant may amend the application, provided such amendment does not introduce technical information not included in the disclosure, including drawings, of the application as filed.

Article 13. Grant of Patent or Petty Patent; Publication.

Where the application complies with the requirements for protection as provided in the Intellectual Property Law and this Decision, the Department shall notify the applicant that the application is in condition for allowance and notify the applicant to pay the prescribed fees. When the applicant provides a receipt from the Finance Division showing payment of such fees, the Department will issue the applicant a receipt and grant the patent or petty patent, as applicable. The Department will issue a patent or petty patent certificate, record the grant, and publish information relating to the patent or petty patent in the Official Industrial Property Gazette. If additional fees are due for any reason, the Department shall notify the applicant to pay the prescribed fees and, when the applicant provides a receipt from the Finance Division showing payment of such fees, shall complete the procedures described in this article.

Article 14. Invalidity and Cancellation.

Any interested party that believes a patent or petty patent is invalid may file a cancellation proceeding against a patent or petty patent as provided in Article 136 of the Intellectual Property Law and consistent with Section VIII of this Decision. Such cancellation proceeding may be brought at any time during the term of the patent or petty patent or may be raised thereafter during any proceeding relating to the enforcement of rights under the patent or petty patent.

SECTION III
Application Requirements

Article 15. Minimum Requirements for Filing Date; Provisional Acceptance of Application.

1. In determining whether an application for a patent or petty patent shall be provisionally

accepted for filing in accordance with Article 8 of this Decision, the Department may accept as filed and issue a filing receipt allowing applicant to pay fees for any application that

- 1) Appears to be a request for a patent or petty patent, regardless of whether it is presented on the required form;
- 2) Appears to include a description of the invention; and
- 3) Contains the name and address of the applicant;

Provided that to obtain a patent or petty patent, all the requirements of Article 31 of the Intellectual Property Law and the requirements of this Decision must be satisfied within the times set for response by the Department.

2. For purposes of this article, the requirement of a description may be provisionally satisfied by a written description of the invention, a drawing or other image, or a combination thereof, without inquiry as to whether such application actually provides an enabling description.

3. Applicants should note that the minimum requirements to obtain a filing date may not be sufficient to satisfy the requirement for an enabling disclosure, and that the application as filed will determine the scope of any amendments that may be permitted for an application to retain its filing date.

Article 16. Application Requirements.

An application for a patent or petty patent shall include the items enumerated in Article 31 of the Intellectual Property Law and such other information as may be required by the Department. The application shall be presented on the form provided. It shall include the items enumerated in Article 31 of the Intellectual Property Law and other information as set forth below, in substantially the order shown below:

- 1) Application on the form provided, together with a receipt for payment of fees.
- 2) If not provided on the application form, the
 - a) Name of the natural person or persons who invented the subject matter of the application, even if such invention or utility innovation is owned by another person or organization,
 - b) Nationality and residence, if any, of an applicant who is a natural person, or of all such persons, if more than one, and for a legal entity, the country of incorporation and place where such entity has a real and effective industrial presence, if any, unless such information is already disclosed on the application form;
 - c) Telephone and facsimile numbers and email or other information for electronic communication with the applicant and the applicant's representative, to the extent such items are available.
- 3) A list of items annexed to the application.
- 4) A specification as described in Article 17 of this Decision.
- 5) Drawings as provided in Article 18 of this Decision.
- 6) Signature of the applicant or applicant's representative.
- 7) An electronic copy of the documents submitted for filing in a standard format that is accessible by the Department, provided, however, that the Department may waive this requirement for independent inventors. The Department may, from time to time, issue a Notice regarding acceptable electronic format for such documents.

Article 17. Specification.

1. The specification should include the following sections in order:

- 1) Title of the invention as described in paragraph 3 of this article.
- 2) Cross-reference to related applications if any.
- 3) If applicable to the invention or utility innovation, reference to a "Sequence Listing," a table, or a computer program listing which may be submitted in electronic format and a statement is incorporating such material by reference. The number of compact discs or other items containing such electronic material shall be stated.
- 4) Background of the invention as described in paragraph 4 of this article.
- 5) Brief summary of the invention as provided in paragraph 5 of this article.
- 6) Brief description of the several views of the drawings as described in Article 18 of this Decision.
- 7) Detailed description of the invention as described in Article 19 of this Decision.
- 8) A claim or claims as described in Article 20 of this Decision.
- 9) Abstract of the disclosure as described in Article 21 of this Decision.
- 10) "Sequence Listing," if applicable and if submitted on paper

2. The text of each of the sections of the specification listed above and included in the application should be preceded by a section heading sufficient to enable it to be easily located in the application. It is not necessary to include a section that is not applicable to the particular application.

3. The title of the invention or utility innovation should identify the nature of the invention, for example, composition of matter, mechanical device, chemical product or process, or some combination of such items, together with subject to which the invention pertains. While there is no fixed manner of naming an invention or utility innovation, the title should be chosen to be as short and descriptive as possible, as this will aid in administrative handling of applications.

4. The background of the invention should describe the technical problem to be solved or improvement made by the invention, together with a description of related technology or other attempts to address such problem. This section should identify existing knowledge in the field as it relates to the subject of the invention, including where applicable any previous attempts to solve the technical problem. Such description need not disparage existing or prior technology. Where such prior knowledge is described in patents or publications, it is appropriate to mention such items in this section.

5. The summary of the invention should briefly describe the nature of the invention, its technical field, and the nature of the technical problem it solves or the improvement it makes.

6. Where an applicant proposes to file several patent or petty patent applications at the same time, the application for each patent or petty patent must be filed separately. However, the applicant may rely on the provisions of Article 76, paragraph 4, of this Decision with regard to all attachments to the application other than the disclosure, drawings, and claims.

Article 18. Drawings.

1. Drawings shall be provided when they are necessary to understanding an invention and should be provided when they would aid in understanding the invention. For purposes of determining whether the application contains an enabling description, the information conveyed by drawings shall be taken into account by the Department.

2. Drawings may illustrate one or more features of the invention. For purposes of the requirements relating to drawings, a “drawing” shall be understood to include not only a depiction of the invention or of a portion thereof, but also any other figure that may aid in understanding of an invention, such as a schematic diagram of an electrical invention, drawings of the chemical structure of a chemical compound, graphical depictions of results or parameters of operation of the invention.

3. The choice of drawings to be submitted will be determined by the applicant based on the particulars of the invention or utility innovation, provided that the application must contain as many views as necessary to illustrate the invention. Views may be, for example, plan, elevation, or perspective views of the invention. Other common types of views that are acceptable include the following:

- 1) Exploded views, showing the relationship or order of assembly of various parts are permissible. When an exploded view is shown in a figure which is on the same sheet as another figure, the exploded view should be placed in brackets.
- 2) Partial views when necessary to show a large item in its entirety, together with smaller scale view showing the whole formed by the partial views and indicating the positions of the parts shown.
- 3) Sectional views together with an indication of the plane upon which a sectional view is taken as regards the nature of a material seen in cross section.

4. When drawings are included in the application, the specification shall include a brief description of the several views of each drawing or other figure provided. | |

Comment [C1]: To guidelines

4. Where drawings are provided, the detailed description of the invention shall refer to the different views of drawings by specifying the numbers of the figures, and it shall refer to the different parts of the invention by use of reference letters or numerals (preferably the latter).

5. The content of drawings should generally follow accepted norms for the relevant field of technology, that is, symbols and other elements of drawings should be consistent with common usage in the fields of chemistry, electronics, mechanical devices, or biotechnology.

6. Where an invention relates to an improvement, the subject matter of the improvement should be illustrated where possible in drawings that demonstrate both the improvement and the relationship between the improvement and existing technology.

Article 19. Detailed Description; Disclosure Requirements.

1. The description, drawings, and claims of a patent or petty patent are typically technical in nature. These elements are crucial to the understanding of the invention and its legal effect, and in most cases, omissions and errors cannot be corrected without re-filing, which may in

some cases entail the loss of rights to a patent or petty patent. Although applicants are entitled to represent themselves in filing applications, the Department strongly advises applicants to secure the assistance of a Patent Practitioner in the preparation of the application and its prosecution before the Department.

2. The specification of a patent or petty patent application must include a written description of the invention or discovery and of the manner and process of making and using the invention or utility innovation. The description must be provided in such full, clear, concise, and exact terms as to enable any person of ordinary skill in the relevant field of technology to make and use the invention or utility innovation without further experimentation to determine how the invention or utility innovation may be put into practice. The relevant field of technology is the field to which the invention or utility innovation pertains or with which it is most nearly connected, to make and use the same.

3. The specification must set forth the precise invention or utility innovation for which a patent or petty patent is solicited, in such manner as to distinguish it from other inventions or utility innovations and from what is old. It must completely describe a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable.

4. Where the invention relates to an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it.

5. Where there is more than one way of carrying out the invention or utility innovation, the application shall disclose and clearly identify the best mode to make and use the invention.

6. The description should describe the invention or utility innovation in terms that will enable it to be understood by a person of ordinary skill in the relevant field of technology. It should include a reference to drawings as needed or helpful in explaining the invention or utility innovation.

7. A disclosure may be amended, subject to provisions relating to the introduction of new technical information.

8. For purposes of determining the subject matter that is disclosed in an application as filed, the disclosure will be considered to include the written specification in the application as filed, any drawings filed with the application, and any claims included in such application.

9. Subject to the conditions and requirements of this paragraph, if all or a portion of the description or drawing(s) is inadvertently omitted from an application, but the application contains a claim for priority or entitlement to an earlier effective filing date based on an earlier-filed application, and the inadvertently omitted portion of the description or drawing(s) is completely contained in the prior-filed application, the priority claim or other claim to entitlement to the filing date of the earlier application shall be considered to incorporate such material by reference and the application may be amended to include the inadvertently omitted material within the time period set by the Department.

Article 20. Claims.

1. Each application shall include one or more claims that shall specify the subject matter that the applicant claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention or utility innovation.
2. The scope of the applicant's legal rights under a patent or petty patent is determined with regard to the claims. Claims should therefore be carefully drafted to point out specifically the elements that comprise the invention.
3. The claim or claims must conform to the invention as set forth in the remainder of the specification, and the terms and phrases used in the claims must find clear support or basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description.
4. More than one claim may be presented provided the claims differ substantially from each other and are not unduly multiplied, and provided that the relevant fee therefor, if any, is paid in advance. If there are several claims, they shall be numbered consecutively. Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation to aid in the examination of the application.
5. One or more claims may be presented in dependent form, referring back to and further limiting another claim or claims in the same application. Claims in dependent form shall be understood to include all the limitations of the claim incorporated by reference into the dependent claim.
6. Where more than one claim is submitted, the least restrictive claim should be presented as claim number 1, and all dependent claims should be grouped together with the claim or claims to which they refer to the extent practicable.
7. A multiple-dependent is a dependent claim which refers to and depends from more than one other claim. A multiple-dependent claim shall be acceptable subject to payment of the relevant fees. For fee calculation purposes, a multiple dependent claim will be considered to be that number of claims to which direct reference is made therein, and any claim depending from a multiple dependent claim will be considered to be that number of claims to which direct reference is made in that multiple dependent claims.
8. A multiple dependent claim shall be construed to incorporate by reference all the limitations of each of the particular claims in relation to which it is being considered. Any multiple dependent claims shall refer to such other claims in the alternative only. A multiple dependent claim shall not serve as a basis for any other multiple dependent claims.
9. Claims shall normally be introduced by language identifying them as claims, such as "I claim" or "The invention that is claimed is as follows." Such introductory language is not considered part of the claim itself. The basic form for an independent claim, that is, a claim that does not depend on another claim for its description, is as follows:

- 1) A preamble that introduces the subject matter of the claim. Where the invention

relates to an improvement, the preamble may comprise a general description of all the elements or steps of the claimed combination which are conventional or known.

- 2) A phrase introducing the elements of the invention. For an invention or utility innovation that relates to an improvement, the claim may include a phrase such as “wherein the improvement comprises.”
- 3) A detailed listing of the elements of a mechanical or electrical device, steps of a process, or composition of a chemical compound or biological material, together with a description of the way such items relate to each other. Where the invention or utility innovation relates to an improvement, the claim should identify those elements, steps, and relationships that constitute that portion of the claimed combination which the applicant considers as the new or improved portion of the invention or utility innovation.

Comment [C2]: guidelines

10. It is permissible and usual to include more than one claim in the application. Such claims typically relate to different embodiments of the invention, and may depend for a portion of their description on a previous claim.

11. The basic filing fee for an application entitles an applicant to include up to three of independent claims and up to fifteen dependent claims, and to amend such claims in the course of prosecution of the application. Where an application includes or is amended to include claims in excess of the number included in the basic application, the applicant must pay the relevant fee for excess claims as set forth in the Presidential Decree on Fees.

In addition to the other filing fees, any original application which is filed with, or is amended to include, multiple dependent claims must have paid the fee for such multiple dependent claims.

12. Claims may be amended during the prosecution of the patent or petty patent application, by restricting or enlarging their scope of coverage, provided that such claims must be supported by the disclosure. The claims of the application as originally filed shall be considered to be part of the disclosure for purposes of this paragraph and for purposes of evaluating whether the application satisfies the requirements of providing an enabling disclosure. Matters of form need not be raised by the examiner until a claim is found allowable.

Article 21. Abstract.

An abstract is needed purely for technical information and is not considered part of the disclosure or a limitation on the scope of protection. Commonly, the abstract corresponds to the broadest claim of the invention. The purpose of the abstract is to enable the Department and the public to determine quickly from a cursory inspection the nature of the technical disclosure.

Article 22. Other Disclosure Requirements.

1. The Department may require the applicant to submit additional information as needed to carry out its examination or to respond to other matters that may be raised in connection with the application.

2. The Department may require the applicant to provide copies of data or a specimen or sample of the invention or other such items if needed for purposes of examination. The

Department shall return to the applicant, at the applicant's expense and subject to applicant's arrangements, a bulky or oversized specimen or sample that cannot be readily stored in the Department's files or, at applicant's option and expense, shall dispose of such item. The Department may dispose of perishable materials without notice unless the applicant makes prior arrangement to have such items returned to applicant or otherwise disposed of at applicant's expense.

3. Where the Department reasonably doubts claims made in an application, in particular, where the application makes claims that appear contrary to scientific knowledge, the Department may require the applicant to arrange for an independent evaluation of the invention or utility innovation at applicant's expense.

4. Where an invention or utility innovation involves living matter, and the invention or utility innovation cannot be exploited without a sample of such material, the applicant shall take steps to ensure that samples of such material are available and accessible in the Lao PDR so as to enable its exploitation after the end of the term of the patent or petty patent or, under appropriate conditions, its use for research purposes before the end of such term. The Department may from time to time issue a Notice to provide guidance on acceptable terms for deposits and depositories.

5. Since the patent or petty patent will be subject to publication, a specification or drawings that include material subject to copyright or other rights of another person who is not the applicant or inventor shall include a statement authorizing the reproduction of such material. Such authorization shall be substantially as follows:

A portion of the disclosure of this patent document contains material which is subject to copyright (or integrated circuit layout-design) protection. The (copyright or integrated circuit layout-design) owner has no objection to the reproduction by anyone of the patent or the patent disclosure as it appears in the file or records of the Lao Intellectual Property Department but otherwise reserves all (copyright or integrated circuit layout-design) rights whatsoever.

SECTION IV Priority and Temporary Protection

Article 23. Priority

1. An application may claim priority on the basis of on an earlier-filed application pursuant to Article 29 of the Intellectual Property Law. A claim for priority is made by submitting a written statement that requests such priority and identifies the patent or petty patent application that can serve as a basis for a priority claim under the Paris Convention. The Department will determine whether the requirements are met to satisfy the priority claim. If the requirements are met, the priority date shall be the effective filing date in the Lao PDR for purposes of evaluating whether the requirements for protection have been met and for purposes of determining any third party claims or rights to the industrial property. The effect of a declaration of priority shall be as provided in the Paris Convention and in the Intellectual Property Law.

2. A priority claim can only be based on a regular national filing of an application in a country, customs union, or intellectual property office that is a member of the Paris Convention

or of a bilateral, regional, or other international agreement of which the Lao PDR is a member and which provides for a right of priority. The Department shall from time to time publish a notice identifying the countries and offices where such filing may serve as the basis for a priority claim.

3. Any person claiming the priority of a previous application shall indicate the filing date of such application, the country in which it was made, and the number of that application, and the type of intellectual property to which the application pertains, for example, patent or petty patent, and shall provide a copy of the relevant priority document, certified as correct by the authority which received such application. The copy of the previous application may be filed with the Lao application or at any time within three months of the filing of the Lao application.

4. Where a claim for priority is made, but the required information or documents are not submitted with the claim, the Department shall inform the applicant to submit such information or documents, stating the time within which such documents must be received. Such documents shall be submitted in any event within three months from the filing date of the application in the Lao PDR.

5. Where the copy of an application, duly certified by the issuing office, is submitted within the time provided in paragraph 2 of this article, together with a translation of such document into the Lao language, it shall be considered to be timely filed and, if the Department finds the priority claim to be otherwise in order, a priority date awarded.

6. Where such documents are not in the Lao language, a priority date shall be provisionally awarded and the applicant shall be notified to provide a translation into the Lao language. Such documents shall be considered to be timely filed, and the requirement for a copy of the application to have been met, if the copy is submitted within the time allowed in paragraph 3 of this article and the translation is provided within 60 days of notification by the Department to provide a translation.

7. If the applicant fails to complete the requirements for priority within the time or times set, the priority declaration shall be considered to have been abandoned by the applicant and the application will be examined as though the priority declaration was not made.

8. Where applicable, an application shall be entitled to claim multiple priorities based on applications filed in one or more countries where such applications relate to the subject matter of the Lao application, and further provided that for patents, petty patents, or related subject matter, there is unity of invention between such applications. In such case, the applicant may be required to identify the subject matter pertaining to each priority claim.

9. Priority will not be refused on the ground that certain elements of an invention or utility innovation for which priority is claimed do not appear among the claims in the application in the country of origin, provided that the application documents as a whole specifically disclose such elements.

10. The periods of priority shall be twelve months for patents and utility innovations, beginning from the filing date of the application on which priority is based but excluding the filing date of such application and ending on the date that is six months or one year later, as applicable. Where the last day of the priority period is an official holiday, or a day when the Department is not open for the filing of applications, the period shall be extended until the first

following working day.

10. It is permissible to claim priority for a patent application on the basis of an application for a petty patent, and the reverse, and to claim priority for an industrial design on the basis of an application for a patent, petty patent, or utility model, and the reverse, provided however that the such applications will nevertheless need to comply with requirements for the applicable form of intellectual property.

Article 24. Temporary Protection at Certain International Exhibitions

1. An applicant who wishes to claim the benefit of temporary protection under Article 30 of the Intellectual Property Law shall submit a written request for such protection. Such request may be filed with the application or within three months thereafter and shall include information necessary for the Department to evaluate whether the applicant is entitled to the protection requested. Such information will usually include the following:

- 1) Name of the international exhibition, its purpose, and criteria for eligibility to participate in the exhibition;
- 2) Place where such international exhibition was held, and an indication of the places from which participants were drawn;
- 3) The name and address of the sponsors or organizers of the exhibition;
- 4) Explanation of the official nature of the exhibition, or of its official sponsorship, as applicable, and the name and address of the official body that sponsored or granted official recognition to such exhibition;
- 5) Dates during which the international exhibition was held, or if applicant's goods were not exhibited during the entire period of the international exhibition, dates during which applicant's goods were exhibited;
- 6) Applicant's goods that were exhibited at the international exhibition as relevant to the request for temporary protection, and a brief statement indicating how the goods were displayed.
- 7) A copy of documents that provide evidence of the exhibition, such as a flyer, program guide, official letter of invitation, or the like, where such documents tend to establish one or more of the facts mentioned above.

2. Temporary protection will be available only where the application is filed within six months from the date on which the goods were first exhibited or rendered at such exhibition.

3. If the Department finds that the conditions of Article 30 of the Intellectual Property Law have been satisfied, the application shall be deemed, for purposes of determining novelty and inventive step, to have been filed on the date on which the goods were first exhibited at such exhibition.

4. An applicant who is entitled both to claim priority and temporary protection under this article will be accorded the earlier of the two dates. Temporary protection under this article shall not be applied so as to extend any other claim of priority.

SECTION V Formalities Examination

Article 25. Examination for Formalities.

1. An application for which a fee has been paid and that has been assigned an application number shall be examined to determine whether it contains all of the elements described in Articles 16 through 22 of this Decision, and whether such elements appear to satisfy formal requirements, including whether the application is presented on the proper form, whether a drawing is legible, and whether elements of the application are presented in the order required. The formalities examination shall not address the merits of each element or whether such element satisfies substantive requirements to allow registration.

2. An application that is found to satisfy formal requirements shall be accepted for substantive examination.

3. If the application is not complete or does not satisfy the formal requirements as described herein, the Department will notify the applicant of any requirements not satisfied and the period of time in which the applicant must meet the requirements.

Article 26. Application to Relate to One Invention or Utility Innovation; Unity of Invention.

Consistent with Article 31 of the Intellectual Property Law, an application for a patent or petty patent shall relate to a single invention or utility innovation, or to a group of inventions or utility innovations that are so closely related as to form a single inventive concept and thereby to satisfy the requirement of unity of invention under the Patent Cooperation Treaty. Where an application is found by the Department to relate to more than one invention or utility innovation, the applicant must either restrict the application to a single trademark or geographical indication or divide the application into two or more divisional applications as described in Article 26 of this Decision.

Article 27. Division.

1. As provided in Article 42 of the Intellectual Property Law, an applicant may, up to the time when the application is in order for grant, amend the application without fee, provided that the amendment shall not go beyond the disclosure in the initial application.

2. An applicant may up to the time when the application is in order for grant, divide the application into two or more divisional applications provided that each divisional application shall not go beyond the disclosure in the initial application. Each divisional application shall be entitled to the filing date and where applicable, the priority date or temporary protection date, as applicable, of the initial application.

3. An application may be divided into one or more divisional applications by filing one or more subsequent applications that make reference to the application being divided. The second or subsequent application shall be identical to the application on which it is based and shall be accompanied by a statement that the newly filed application is a division of such earlier application, which shall be identified by its filing number, title, name of inventor, and filing date. Both the newly-filed application (or applications) and the earlier application shall be amended to restrict their claims to contain only a single invention or utility innovation, as appropriate, or a group of such related items as to meet requirements for the relevant form of intellectual property such as unity of invention. Such amendment may be filed with the

divisional application or within 60 days thereafter.

4. Where an application is divided, the applicant shall pay an additional filing fee for each divisional application that is in addition to the application that has been divided.

Article 28. Re-Filing; New Material; Amendment and Re-Filing to Claim Correct Form of Protection.

1. As provided in Article 42 of the Intellectual Property Law, at any time an application is pending before the Department but before the Department has granted a patent or petty patent or registration thereon, and before the abandonment, final rejection, or other termination of proceedings on the application, the applicant may re-file the application together with any amendments by paying the application fee.

2. An application that is re-filed as provided in paragraph 1 of this article shall be entitled to the benefit of the filing date of the earlier-filed application (including any priority or temporary protection claim) provided that it contains or is amended to contain a specific reference to the earlier-filed application and further provided that any amendments do not introduce new information that goes beyond the scope of the original application as filed.

3. Where an application is re-filed as provided in paragraph 1 of this article but is accompanied by amendments that introduce material that goes beyond the scope of the original application as filed, such re-filed application shall be entitled to the benefit of the filing date of the earlier-filed application (including any priority or temporary protection claim) with regard to any disclosures in such earlier-filed application, provided that it contains or is amended to contain a specific reference to the earlier-filed application, and with regard to such information that goes beyond the scope of the original application as filed, the re-filed application shall be entitled to the filing date on which it was actually re-filed in the Lao PDR.

4. The procedure of this article may be used to convert a patent application to an application for a petty patent, or to convert a petty patent application to a patent application. The converted application is eligible to receive the filing date and, if applicable, the priority or other effective filing date of the earlier-filed application, provided that such conversion shall not serve to extend the priority period for an industrial design.

5. An applicant shall not receive both a patent and petty patent claiming the same subject matter.

**SECTION VI
Substantive Examination**

Article 29. Search and Substantive Examination.

1. When an application has been found to satisfy the formal requirements set forth in this Decision, the Department shall conduct a substantive examination in accordance with this Section to determine whether the application meets the requirements of Article 13 for a patent or Article 14 for a petty patent, and whether the grant of a patent or petty patent is barred by Article 21 of the Intellectual Property Law.

2. Substantive examination shall include a search to identify any earlier patents or other disclosures that may create a bar to the grant of a patent or petty patent pursuant to Article 13 or 14 of the Intellectual Property Law. Substantive examination for novelty and inventive step shall be based on a comprehensive search of information that is already known. The Department may adopt a search or examination report, or both, as provided in Article 30 of this Decision.

3. The Department shall prepare a written report identifying any grounds for refusal of the application and shall promptly provide this report to the applicant, who shall have an opportunity to respond to such objections and, if desired, to amend the application consistent with the provisions of Articles 12, 19, and other provisions of this Decision.

4. The time for responding to any communication from the Department is 60 days from the date such communication is sent unless otherwise provided. If an applicant fails to respond satisfactorily to any requirement or ground for refusal within the stated time for action, the Department will take final action on the application 90 days from the date of the requirement or other communication unless the applicant files an appeal within this period.

Article 30. Search and Examination Reports.

1. Applicants for a patents or petty patents must provide a search and examination report as provided in Article 41 of the Intellectual Property Law and in this Decision or request substantive examination as provided therein.

2. Where the applicant for a patent or petty patent does not submit either a request for examination or the relevant documents described above, the Department shall invite the applicant to do so. If the applicant fails to comply with this provision within 60 days from such notification, the application will be deemed to be abandoned, provided however that the Department may extend the time for complying with this provision for good cause shown by the applicant.

3. An applicant may satisfy the requirement of Article 41 of the Intellectual Property Law by submitting a search and examination report of another office. Such report will be acceptable where it

- 1) Concerns the same subject matter as the Lao application,
- 2) Is based on a comprehensive search of existing technical information, and
- 3) Addresses the issues of whether the application is new, has an inventive step, and is industrially applicable.

In particular, an applicant may satisfy the requirement of a substantive examination report by providing a copy of the Patent Cooperation Treaty search and examination report for the invention.

4. An issued patent or petty patent may likewise be submitted to satisfy the requirement of Article 41 of the Intellectual Property Law provided that

- 1) The issued patent is accompanied by documents showing the prosecution history of the application and
- 2) The grant of the patent is based on a comprehensive search of existing technical

information and an examination that addressed whether the application is new, has an inventive step, and is industrially applicable.

The accompanying documents should include a copy of correspondence received by the applicant relating to the examination of the application and the final decision approving or refusing the application and the reasons supporting such decision.

5. A search and examination report or issued patent may be accepted even though it does not identically describe the concepts of novelty, inventive step, or industrial applicability in the terms used in the Lao Intellectual Property Law, provided it can be discerned from such report or from such issued patent and examination correspondence whether the application meets, or can be amended to meet, the requirements of the Lao Intellectual Property Law.

For purposes of this paragraph, it is not required that the claims associated with the Lao application be identical to those in the application or issued patent or petty patent in connection with which the examination report or issued patent is submitted, provided that the information or documents submitted are sufficient to meet the requirements for examining the Lao application. In particular, a Lao application may contain, or be amended to contain, fewer claims than in the application associated with the search and examination report or issued patent or petty patent. Likewise, claims may be added to the Lao application as filed, in particular, to copy claims of the issued patent or petty patent or that were found allowable in the search and examination report, provided that the disclosure in the Lao application as filed contains information to support such claims, and further subject to compliance with other requirements of the Intellectual Property Law and this Decision.

6. Where the Lao application contains claims not supported by the search and examination report or issued patent as described above, or where claims in the Lao application contain limitations or other elements not present in the claims of the application that was the subject of the search and examination report or issued patent, the applicant may be required to identify the basis in the disclosure for such claims, limitations, or other elements.

7. Where an application has been subject to more than one search and examination that would satisfy the requirements of this article, the applicant should submit the Patent Cooperation Treaty search and examination report if available. It is not necessary for the applicant to submit all such search and examination reports except where such different reports are needed to support different elements of the Lao application as described in paragraph 6 of this article.

8. Except as otherwise specifically provided in this Decision, the Department shall conduct or provide for a substantive evaluation of the application in accordance with the relevant provisions of the Intellectual Property Law and this Decision and shall notify the applicant of any conditions, objections, or grounds for refusal of part or all of the rights for which the applicant has applied, or any conditions or restrictions thereon. The applicant will be given an opportunity to respond and, subject to any limitations provided below, to amend the application or provide supplementary information to respond to the communications from the Department. The Department may require additional information as needed.

Article 31. Amendment During Examination.

As provided in Article 42 of the Intellectual Property Law, at any time an application is pending with the Department but before the Department has granted a patent or petty patent

thereon, and before the abandonment, final rejection, or other termination of proceedings on the application, the applicant may amend the application without fee, provided that any such amendment shall not introduce new technical information to which the application applies, as provided in Article 32 of this Decision.

Article 32. New Technical Information.

For purposes of this Decision, "new technical information" refers to the introduction in any form of information that is not disclosed in the application as originally filed. The introduction of such information may include amendments to the specification, claims, or drawings where the material introduced makes additions, limitations, or changes to the content of the application.

Article 33. Information Not Considered to Be New Technical Information.

1. Information shall not be considered new for purposes of this article if it is disclosed in any manner in the application as originally filed, including in the specification, claims, or drawing.
2. Information shall not be considered new for purposes of this article if the information introduced is an inherent feature of the technical information disclosed in the application. An *inherent* feature is one that is unstated but is a natural characteristic of, or inseparable from, an element cited in an application. Usually, chemical and physical properties, such as melting point of a compound or capacitance of a semiconductor, are inherent, but most issues must be resolved by considering what common knowledge of those is skilled in the relevant field of technology. It is not necessary to recite an inherent technical feature, but it may aid in understanding to do so.
3. Information shall not be considered new for purposes of this article where it is well-known in the relevant field of technology and merely serves to explain the invention or limit a claim.
4. Where an application has been re-filed to introduce new technical information, the provisions of this article shall apply with regard to the filing date of the re-filed application.

Article 34. Refusal Based on False or Misleading Statements.

At any time during the pendency of an application, the Department may refuse an application that the Department has good reason to believe contains false or misleading information or with regard to which the Department has good reason to believe the applicant or applicant's representative is making false or misleading statements to the Department. In such case, the Department shall first notify the applicant of the Department's intended action and the grounds therefor and permit the applicant to withdraw or correct such information or statements, subject, however, to any limitations on new information set forth elsewhere in this Decision.

Article 35. Persons Entitled to File; Effect of Filing.

1. Subject to the Intellectual Property Law and Article 6 of this Decision, an application may be filed by the inventor or other person who owns the invention or utility innovation in accordance with the Intellectual Property Law. If filed by a person who is not the inventor, the application must name the natural person or persons who made the invention.

2. By filing an application, or by having such application filed on one's behalf, the applicant consents to be bound by this Decision and certifies that applicant is legally entitled to file the application, and that all information provided in the application is true to the best of applicant's knowledge and belief, after reasonable inquiry to determine the facts.

Article 36. Inventorship; How Determined.

1. An inventor is a person who makes an invention or utility innovation, regardless of whether such invention or utility innovation is entitled to the protection of a patent or petty patent.

2. There is no fixed process by which an invention or utility innovation is made. An invention or utility innovation may be, for example, the result of careful research and experimentation, a sudden flash of inspiration, or the realization of a discovery, provided in all cases that to obtain a patent or petty patent thereon, such invention or utility innovation must satisfy all requirements for protection.

3. A person makes an invention or utility innovation when such person has a completed conception of all of the elements of the invention sufficient to prepare an enabling disclosure or, if the invention is the result of a discovery, when such person recognizes the elements of the discovery in sufficient detail to prepare an enabling disclosure. Note that the idea for an invention may result in the making of an invention, but the mere idea itself, without such sufficient detail as may be needed for an enabling disclosure, is not an invention or utility innovation and is not subject to the protection of a patent or petty patent.

4. Care should be taken in naming the actual inventor of an invention or utility innovation. Inventors have a moral right to be named as inventor in any patent or petty patent application based on such person's inventive contribution. Moreover, the identify of inventors has legal consequences with regard to the right to file an application and with regard to ownership of the subject matter of the invention or utility innovation, the right to file an application, and ownership of any resulting patent or petty patent. In particular, the failure name the correct inventor, or correctly name all joint inventors, or naming as an inventor a person who did not actually contribute to the making of the invention, may result in a loss of rights to the patent or petty patent. Intentionally providing incorrect information on the identity of one or more inventors will be considered a deceptive act that may result in striking the application or cancellation of the patent or petty patent, or a transfer of ownership as provided in Article 42 of this Decision.

5. In determining whether a person is an inventor for purposes of the Intellectual Property Law and this Decision, the primary issue is whether such person made a contribution of knowledge or creativity that resulted in the making of the invention or utility innovation. A person who merely carried out the instructions of others without making a contribution of knowledge or creativity is not considered to be an inventor, nor is a person who supervised or provided funding for the activity that resulted in such invention or utility innovation but who did not contribute knowledge or creativity to the making of the invention, even where such person may be entitled to ownership by virtue of Article 46 of the Intellectual Property Law.

6. Where an invention or utility innovation is jointly made, every person who contributes to the making of the invention or utility innovation by contributing to the inventive concept is an inventor for purposes of this article. Such persons are considered to share equally in the

inventorship of the invention or utility innovation without regard to the proportion in which such contribution was made. The pivotal issue in determining whether a person's contribution is sufficient to name such person as an inventor in an application is whether the invention or utility innovation, as claimed, would have been made absent such person's contribution. During the course of prosecution of an application, it may be necessary to amend an application to correct the list of inventors named therein.

Article 37. Evaluating Novelty.

1. For purposes of Articles 13 and 14 of the Intellectual Property Law, the public disclosure of an invention or utility innovation shall be determined with regard to the claim or claims of such application.

2. A disclosure shall render the subject matter no longer new for purposes of Article 13 or 14 of the Intellectual Property Law where the subject matter identified in the claim or claims is identically disclosed that is, the disclosure contains all of the elements identified in the claim. For purposes of this article, it is not necessary that such subject matter be identified in claim form. Any disclosure of subject matter that is identical to the claim shall be sufficient to render such subject matter no longer new.

3. A disclosure is considered to have been made pursuant to Article 13 or 14 of the Intellectual Property Law if such disclosure occurs in any part of the world before the filing date of the application or if applicable, before the priority date or temporary protection date of the application, or such application's effective filing date based on the re-filing of an application.

In particular, the following acts are considered to constitute a disclosure pursuant to Article 13 or 14 of the Intellectual Property Law:

- 1) Grant of a patent or petty patent on the relevant subject matter anywhere in the world;
- 2) Publication or laying open for inspection of such subject matter anywhere in the world;
- 3) Publication in a journal or other published writing anywhere in the world;
- 4) Commercial exploitation of the subject matter anywhere in the world;
- 5) Subject to paragraph 4 of this article, any other disclosure of such subject matter, orally or in writing, anywhere in the world.

4. For purposes of Articles 13 and 14 of the Intellectual Property Law, communication of the subject matter of an invention or utility innovation shall not be considered to be a disclosure to the public where the subject matter of the invention or utility innovation is communicated orally or in writing under an obligation of confidentiality or in circumstances that would not be expected to lead to a release of such information to the public unless such communication leads to a disclosure to the public. Communication in circumstances described in this article includes, for example, communication made:

- 1) Under a written confidentiality agreement;
- 2) Within the organization or enterprise that is the right holder;
- 3) Within family circles or to selected acquaintances;
- 4) To an attorney or agent;
- 5) To a third party for purposes of a transfer of ownership or for obtaining support for the development of such invention or utility innovation that has not yet been placed

in commercial use.

5. For purposes of Articles 13 and 14 of the Intellectual Property Law, the filing of an application shall not be deemed to render the contents of the application known until the application is published or laid open for inspection or results in a patent or petty patent, as the case may be.

Article 38. Evaluating Inventive Step.

1. The requirement of inventive step shall be evaluated on the basis of information available at the effective filing date of such application and not in light of subsequent knowledge, particularly including the knowledge gained as a result of the patent or petty patent application itself. It is inappropriate to judge a technical solution as lacking inventive step merely because it may appear simple or even obvious once the solution is known.

2. In applying the requirement of inventive step, it should be recalled that the requirement is for an inventive step, not the creation of a wall or barrier to protection. There is no fixed degree of difference between an invention or utility innovation and existing technology that is needed to establish an inventive step. Moreover, all inventions incorporate known technology. Therefore, in evaluating whether an invention or utility innovation satisfies the requirement of inventive step, the appropriate inquiry is to determine

- 1) What information was known at the time the invention or utility innovation was made?
- 2) What are the elements of the inventor's solution to a problem or improvement on existing technology?
- 3) How do such elements relate to what was known at the time the invention or utility innovation was made? and
- 4) Most crucially, was there teaching in the existing technology of the time the invention or utility innovation was made that would have suggested to a person of ordinary skill in the relevant field of technology to combine the elements as in the invention or utility innovation.
- 5) Even if there was such teaching, was there other teaching that would have suggested that the elements could not or should not be so combined?
- 6) If so, did the invention or utility innovation overcome known objections in the teaching in an unexpected manner or in a manner that achieved unexpected results?

Note that the criterion of item 4 of paragraph 2 of this article is not whether such person could have combined the elements as disclosed in the application but whether the existing technology would have made it obvious to do so and if it did, would it have made it obvious to do so in a manner that would arrive at the solution that is the subject of the application. Note also that technology does not always point to a single understanding of what is possible or feasible.

In evaluating the question of inventive step, it is useful to consider such issues as the following:

- 1) The state of knowledge in the relevant field of technology at the time the invention or utility innovation was made, taking into account any information disclosed as described in Article 37 of this Decision. For purposes of evaluating inventive step, a disclosure that does not identically disclose the subject matter of the invention as claimed may nevertheless be taken into account in evaluating whether the invention or utility innovation contains an inventive step.

- 2) Whether the solution in the patent or petty patent merely combined existing items that might be expected to be combined because they are frequently or ordinarily used together, a fact that suggests the lack of an inventive step.
- 3) Whether persons with ordinary knowledge in the relevant field of technology would have understood that the solution in the patent or petty patent to have been unworkable or impossible or otherwise contrary to teaching in that field of technology, a fact that suggests the existence of an inventive step.
- 4) Whether the solution addressed a problem that was acknowledged to exist for a long period of time or one that represented a significant issue in terms of cost, safety, or production goals, a fact that suggests the existence of an inventive step.

Article 39. Evaluating Industrial Applicability.

1. An invention or utility innovation is considered to be industrially applicable if it has a practical use or application in relation to any field of industry or commerce, broadly interpreted to include agricultural and extractive industries, handicrafts, fishery and services, as well as recreational and health-related subject matter, and all manufactured or natural products or processes.

2. In general, the standard for satisfying the requirement of industrial applicability is relatively low and may easily be satisfied by most inventions or utility innovations. However, an application will be held to not to meet this requirement where the Department determines that the subject matter described in the application cannot be used because the invention or utility innovation as described has no practical effect that can be used in industry or commerce, even as broadly defined.

An application that involves only mental steps may fail to satisfy the requirement of industrial applicability.

An application that claims to describe a device or process that is unworkable will be refused both as failing to provide an enabling disclosure and as lacking industrial applicability since there can be no application where the device does not work.

A device for which there is no known use will likewise fail to satisfy the requirement of industrial applicability.

3. The fact that an invention cannot immediately be put into use does not negate its industrial applicability.

4. The provisions of Article 4, final paragraph, are not a ground for refusal of a patent or petty patent, even where such grounds may restrict the exploitation of the invention or utility innovation.

Article 40. Right to Require Additional Information.

Where serious doubts exist as to the correctness of any information or documents included in or annexed to an application, the Department may notify the applicant or agent to furnish, within a period not exceeding three months from the date of notification, evidence proving the correctness of such data or documentation.

Article 41. Abandonment of Application.

Pursuant to Article 43 of the Intellectual Property Law, the Department shall determine that an application is abandoned as of the times given below:

- 1) Where the application is incomplete,
 - a. If the application deposited with the Department is incomplete so that it does not meet minimum requirements for obtaining a filing date, after the expiration of 90 days;
 - b. If the application has been assigned a filing date and the applicant has been notified that the application is incomplete and given a time in which to make corrections or supply missing items, at the expiration of the period for such action.
- 2) Where the industrial property does not meet the requirements for protection, at the conclusion of the substantive examination and the expiration of any period for response by the applicant where the applicant has not filed a response that will place the application in condition for allowance.
- 3) Where it appears that the applicant is not entitled to apply for registration, after notice to the applicant and the expiration of any period for response that will show that the applicant is in fact entitled to apply.
- 4) Where the applicant fails to pay the required fees for the application or to maintain the protection in force,
 - a. If the application deposited with the Department has not been assigned a filing date because the filing fee was not paid, after the expiration of 90 days;
 - b. If the fee relates to an extension of time or other fee that is due in connection with the prosecution of the application before the Department, and remains unpaid sixty days after the Department notifies the applicant to pay such fee, at the expiration of such period.
 - c. If the application is in condition for allowance and the filing fee is not paid, sixty days after notification to pay such fee, at the end of such period.
 - d. Where a fee is required to maintain an application in effect and remains unpaid after the period set forth in Article 46 of this Decision, six months after the anniversary of the filing date at the end of the period for which the application is in effect.
 - e. Where the applicant did not comply with substantive examination provisions of Article 41 of the Intellectual Property Law after notification by the Department, at the expiration of the time set in such notification.

Article 42. Publication.

1. Except as provided in paragraph 2 of this article, where the relevant requirements for protection are satisfied, the Department will record the relevant information in the official industrial property gazette and publish such information.

2. Where an application contains lengthy material, such as a computer code, the Department may publish a portion of such material, and interested persons may have access to the entire material after publication, subject to payment of the relevant fee, as provided Article 75 of this Decision.

3. An applicant may, subject to paying the applicable fees, request earlier publication of the application.

4. Where an application has been assigned, an applicant may, subject to paying the applicable fees and providing the relevant information, request that the publication include the assignee's name and address.

5. Where a publication contains a mistake, an applicant may request republication with corrected information, without additional fee, provided that such request must be filed within two months from the date of the earlier publication.

SECTION VII Rights and Obligations

Article 43. General Rights.

The owner of a patent or petty patent shall have such rights as are provided under Article 47 of the Intellectual Property Law and as set forth in this Decision.

Article 44. Enjoyment of Benefits from Exploitation.

For purposes of paragraph 2 of Article 47 of the Intellectual Property Law, the enjoyment of benefits from exploitation shall be as specifically defined for each form of intellectual property as described in Article 55 of the Intellectual Property Law. Such rights shall be subject to any limitations set forth in the Intellectual Property Law or this Decision.

Article 45. Scope of Rights of Exploitation.

1. In applying Article 44 of this Decision, the scope of rights of the owner of a patent or petty patent shall be defined with reference to the claims of the patent or petty patent.

2. The rights of the owner shall extend to acts specified in Article 55 of the Intellectual Property Law where such acts involve each and every element of at least one claim of the patent or petty patent. It is not required that such acts relate to all claims.

- 1) For a process, the rights shall extend to any process that includes all of the steps of at least one claim.
- 2) For a mechanical device, the rights shall extend to any device that includes all of the elements specified in at least one claim and relating to each other, or operating together, as defined in at that claim, even if the such device is used for a different purpose from that stated in the patent or petty patent.
- 3) For a chemical compound or composition of matter, such rights shall extend to any chemical compound or composition of matter with the composition specified in at least one claim, and subject to any limitations in such patent or petty patent, provided however that where the claim is specified as relating to a product made by a specific process, the rights shall be limited to such compounds or compositions that are made by the process identified in the claim.

3. In interpreting claims, in the absence of unexpected results, the presence of additional

elements other than those specified in the patent or petty patent shall ordinarily not serve to distinguish the subject matter from the claims of the patent or petty patent.

SECTION VIII

Term, Invalidity, and Post-Grant Procedures

Article 46. Term; Fees to Ensure Full Term.

1. The term of protection for patents and petty patents shall be as stated in Articles 48 and 49, respectively, of the Intellectual Property Law, where the filing date is understood to mean the actual filing date in the Lao PDR.

2. Enjoyment of the full term of protection shall require the payment of the relevant fees to maintain the application or patent or petty patent in effect as provided in Articles 48 and of the Intellectual Property Law. Such fees shall be due even if the application is still pending before the Department. Such fees shall be paid in advance of the expiration of the period stated and the fees required to maintain the application or patent or petty patent in force for the remaining term may be paid in advance at any time after filing. The period for paying such fees expires on the anniversary of the filing date at the end of the latest period for which fees have been paid.

3. A patent or petty patent, or an application therefor, shall lapse if fees are not paid during the period set forth in paragraph 2 of this article. It is applicant's responsibility to pay such fees when due, and the Department will not issue notices of fees due until the expiration of the period set in paragraph 2, at which point the applicant or owner shall be notified that such application or patent or petty patent has lapsed for non-payment of fees.

4. Where a patent or petty patent, or an application therefor, has lapsed as provided in paragraph 3 of this article, an applicant may nevertheless pay such fees, during the next succeeding six months, subject however, to the payment of a surcharge for late payment, as provided in the Presidential Decree on Fees. Where fees are paid, together with the surcharge, during the period set by this paragraph, the patent, petty patent, registration, or application therefor, shall be restored and shall be deemed to have remained in effect as if such fees had been timely paid in accordance with paragraph 2 of this article.

Article 47. Provisional Protection.

1. As provided in Articles 55 of the Intellectual Property Law, the owners of patents and petty patents are entitled to provisional protection during the period between filing and grant of the patent or petty patent. During such period, the owner shall not be entitled to prohibit acts by other persons that, if undertaken without the patent or petty patent holder's permission, would constitute infringement, but once the patent or petty patent is granted, and subject to the requirements of paragraph 2 of this article, the right holder shall be entitled to equitable remuneration from any person who, during the said period, has carried out acts which require the right holder's authorization as provided in the Intellectual Property Law and this Decision.

2. The right to equitable remuneration provided under paragraph 1 herein shall only take effect in relation to persons whom the right holder has notified of the filing of the application or who

have actual knowledge of such filing, at the time or times that are the subject of the claim for equitable remuneration. No suit shall be brought against any person for the exercise of rights as provided under paragraph 1 unless such person has first been notified of the filing of the application and relevant details as to its scope of protection.

Article 48. Invalidity and Cancellation Requirements.

1. Article 45 of the Intellectual Property Law fixes the times at which rights terminate, to the extent that such events apply, but the grounds for termination of rights to industrial property shall be solely as defined in the relevant Decisions. For purposes of paragraph 4 of Article 45 of the Intellectual Property Law, commercial exploitation shall include importation and sale.

2. Pursuant to Article 45 of the Intellectual Property Law, any interested person who believes that a patent or petty patent was granted in error may file a complaint to the Court demanding the cancellation of the patent or petty patent, or of certain claims thereof, on grounds that the subject matter thereof failed to comply with one or more requirements for protection as set forth below:

- 1) For a patent, that the invention failed to satisfy the requirements of Article 13 of the Intellectual Property Law or that it was ineligible for protection pursuant to Article 21 of the Intellectual Property Law.
- 2) For a petty patent, that the utility innovation failed to satisfy the requirements of Article 14 of the Intellectual Property Law, or that it was ineligible for protection pursuant to Article 21 of the Intellectual Property Law.

3. A complaint brought in accordance with this article must identify the claim or claims alleged to be invalid.

4. Formal requirements shall not form the basis for a complaint to invalidate and cancel a patent or petty patent. In particular, it shall not be a ground for invalidation of a patent or petty patent that the application did not comply with the requirement of unity of invention. Issues relating to the naming of inventors or the capacity of the applicant shall be as provided in Article 36 of this Decision.

5. The complaint shall allege that the patent or petty patent failed to satisfy the requirements for protection under Articles 13 or 14 of the Intellectual Property Law, as applicable, at the time of filing or, if applicable, at the application's effective filing date. The complaint must specifically point out the legal requirement alleged not to have been satisfied and the factual basis supporting such allegation. The complainant shall be responsible for producing evidence in support of such allegation and shall have the burden of persuading the Court of the ground for such complaint.

6. Where the basis for such claim relates to the novelty or inventive step of a patent or petty patent, the Court shall evaluate the claim for invalidity and cancellation on the basis of information that existed at the time the application was filed or such earlier effective filing date to which the application may have been entitled. In particular, the requirement of inventive step must be evaluated on the basis of information available at the effective filing date of such application and not in light of subsequent knowledge, particularly including the knowledge gained as a result of the patent or petty patent application. Evaluation shall be in accordance with Articles 37 and 38 of this Decision.

7. Any party who puts into issue the validity of a patent or petty patent, whether in a special cancellation action or as part of a defense to a charge of infringement, shall notify the Department of such claim and, if the patent or petty patent is cancelled in whole or in part, shall deliver to the Department a copy of the relevant Court decision.

8. The Department may, with consent of the Court, appoint one or more persons to serve as experts in cases relating to complaints brought under this article in relation to Articles 45 and 136 of the Intellectual Property Law.

9. A finding of invalidity of a patent or petty patent shall specify the claim or claims found to be invalid, together with the reasons therefor.

10. Upon the final decision of the competent court finding invalidity in accordance with this article, a patent or petty patent, or any claims thereof, found to be invalid shall be considered void and shall have no legal effect from the date of issue of the patent or petty patent. Upon communication of such decision to the Department, the Department shall cancel the registration and publish such cancellation in the official Industrial Property Gazette.

11. No action may be brought to terminate patent or petty patent rights other than as provided in this article and Article 49 of this Decision.

Article 49. Administrative Cancellation Based on False or Misleading Information.

1. Where it appears to the Department, either on the basis of its own information or information that is provided by a third party, that a patent or petty patent was granted on the basis of false or misleading information, or that an action was taken with regard to a pending application, and such information would have been material to its determinations, the Department may initiate an administrative cancellation procedure. This Decision For purposes of this article, the withholding of material information shall be considered to be equivalent to the furnishing of false material information.

2. The Department shall promptly serve notice upon an applicant, patentee, or petty patentee against whom the Department intends to bring proceedings under this article. Further procedures shall be determined by Notice. The action of the Department may be appealed to the Board of Appeals or to the Court.

3. The Department will not issue advisory opinions regarding the likelihood that a particular application will be canceled or other action taken and will not provide legal advice to applicants regarding the grounds or types of evidence needed to support applications therefor.

4. The Department may provide further procedures by notice.

Article 50. Authorization to Exploit Without Permission of Patent or Petty Patent Owner.

For purposes of Article 63 of the Intellectual Property Law, in addition to the requirements stated in that Article,

- 1) A situation of national emergency or circumstances of critical and extreme urgency shall be found to exist when declared by the President of the Republic in accordance with usual practice in the Lao PDR.
- 2) Where authorization is based on non-commercial use by the Government as provided in Article 63 of the Intellectual Property Law, compensation shall be determined in accordance with this article, and the procedures for obtaining payment shall be in accordance with the usual procedures for claims for Government compensation.
- 3) An application for authorization based on a claim of anti-competitive practices shall state the anti-competitive practice on which the application is based and describe the effect of such practice on the market, and it shall be accompanied by a copy of a court holding to such effect. In evaluating such an application, the essential issue for consideration is not whether the patent or petty patent owner has achieved market success but is whether the patent or petty patent owner has exercised his or her rights in a manner calculated to decrease competition. The mere fact that a patent or petty patent holder enforces his or her rights or refuses to grant a license, even on reasonable terms, shall not constitute a ground for a holding of anti-competitive practices.
- 4) An application for authorization based on failure to work the invention or utility innovation so as to satisfy reasonable demand in the Lao PDR shall be accompanied by evidence showing
 - i. the reasonable demand for the invention or utility innovation in the Lao PDR;
 - ii. the extent to which such demand is currently met; in assessing the extent to which demand is met, such extent shall include both the meeting of demand through domestic production and through importation; and
- 5) a realistic plan by which, if authorization is granted, the applicant can meet such demand. Adequate remuneration to the right holder shall be based on the commercial value of the authorization, including any profit by the person authorized to exploit the patent or petty patent pursuant to Article 63 of the Intellectual Property Law and any lost income to the patent or petty patent owner, provided that such amounts shall not both be taken into account where they relate to the same transaction.

The procedures of Article 51 of this Decision shall apply to proceedings under Article 63 of the Intellectual Property Law and this article.

Article 51. *Inter Partes* Procedures for License without Authorization of Patent or Petty Patent Owner.

1. An application for a license pursuant to Article 63 of the Intellectual Property Law and Article 50 of this Decision shall be brought subject to the procedures of this article. Where an application establishes a *prima facie* basis for granting the relief requested in the application, the Department shall refer the application to a Board established to hear *inter partes* matters.

2. Within 60 days of notification that the application has been found to establish a *prima facie* basis for granting the application, the patentee or petty patentee shall file a response to the application, specifically admitting or denying each element of the application or, if the patentee or petty patentee is without sufficient information on which to evaluate an element, so stating, and submitting such evidence as the patentee or petty patentee believes will rebut the elements of the application. The patentee or petty patentee may, in this filing, present any defenses to the allegations in the application or the requested relief or submit any new information or evidence it believes is relevant to the application.

3. The applicant for the license shall have a single opportunity to rebut any statements or evidence presented by the patentee or petty patentee pursuant to paragraph 2 of this article. Thereafter, the patentee or petty patentee shall have a single opportunity to respond to the rebuttal, provided however, that no new issues of fact or law shall be raised by either party in the course of the rebuttal proceedings.

4. The patentee or petty patentee and applicant shall each file such statements with the Department. Each party shall serve or attempt to serve a copy of all documents on the other party and shall submit evidence of such service or attempted service to the Department.

5. Each submission shall be made within 60 days of service of the previous document, provided, however, that the Department may, upon request and for good cause shown, extend such time by an additional 30 days.

6. When the documents referred to above have been received by the Department, or the time for their submission has expired, the committee will examine the application, response, and rebuttal statements, together with evidence submitted by each party, and render a decision as to whether to grant the application and the relief sought. The committee shall make its determination by preponderance of the evidence and shall be based solely on the information contained in the file.

8. The parties may compromise and settle any such proceeding at any point during the pendency of the application, provided however that such compromise and settlement must be reduced to writing and provided to the Department for review and approval. A compromise and settlement will be approved unless it is found to be contrary to the Intellectual Property Law as it relates to patents and petty patents, for example, by granting a license that would result in a monopolistic practice.

9. In situations of extreme urgency, the Department may set shortened time for complying with the provisions of this article.

10. Decisions under this article may be appealed to the Board of Appeals or to the Court,

SECTION IX

Administrative and Judicial Review

Article 52. Preventing and Correcting Mistakes.

The Department shall have the authority to provide for a review of any action taken by the

Department and to take such administrative action as may be needed to prevent or correct a mistake. Such actions may be taken on the authority of the Director General or such person's designee or as a result of quality review that may be instituted by the Department.

Appeals and other actions provided in this Section are necessary and appropriate to the orderly administration of the Intellectual Property Law. Appeals, requests for reconsideration, and other actions provided in this Section shall be governed by the procedures set forth in this Decision. A request made under these procedures is part of the administrative procedure of the Department and is without prejudice to any rights that may arise under the Petitions Law.

Article 53. Administrative Review: How Initiated.

1. Any applicant or other person who is a party to a proceeding with the Department and who believes the Department has made an improper requirement or decision in such proceeding may, within 90 days of notification of such requirement or decision, take one of the following actions:

- 1) File a written request for reconsideration of the decision or requirement, without payment of a fee, or
- 2) File a written appeal to the Department and pay the relevant fee therefor.

2. Such request must identify the

- 1) Requirement or decision to be reviewed,
- 2) Legal and factual basis on which the request is based, and
- 3) Action requested by the applicant.

3. The request may also include any arguments or explanations that the applicant or other party believes supports the request for reconsideration or appeal.

Article 54. Request to Stay.

A request for administrative review initiated pursuant to Article 53 of this Decision may include a request to stay the implementation of the decision or requirement that is the subject of the request for reconsideration or of the appeal. Otherwise, such decision or requirement remains in effect until such time as it may be withdrawn by the Department. In *ex parte* matters, a stay shall be freely granted in the interests of justice, taking into account the interests of third parties. In *inter partes* matters, the Department shall additionally consider the interests of other parties to the matter and grant a stay where the interests of justice shall best be served.

Article 55. Reconsideration.

1. Where an applicant, patentee or petty patentee, or other party to an *ex parte* proceeding makes a reasonable showing that there is a reasonable basis on which to review the requirement or decision that is the subject of a request for reconsideration, the Department shall grant the request and reconsider the issue leading to the requirement or decision in view of the information and arguments or explanations offered by the applicant, patentee or petty patentee, or other party to the proceeding. Granting a request for reconsideration does not bind the Department to withdraw a requirement or render a different decision but rather to ensure that it

gives the matter a new hearing. Since the Department's only interest in the outcome of its decisions is to ensure that they are correct, a request for reconsideration should not be viewed as an affront to the Department nor to any of its employees. A request for reconsideration is intended to create an informal mechanism allowing the Department to make corrections quickly.

2. The same principles shall apply in *inter partes* proceedings, provided, however, that in *inter partes* proceedings, the party requesting review must serve a copy of such request and any accompanying materials on the other party or parties to the proceedings. Such other party or parties shall be entitled to be heard on the request and to submit its own documents supporting or opposing such review, following the procedures provided in Article 50, *mutatis mutandis*. The Department shall weigh the interests of the parties in deciding whether to grant a request for reconsideration. A request to stay may also be filed as provided in Article 54 of this Decision.

3. An action brought under this article is a request for the Department to exercise its supervisory authority.

4. An applicant who is dissatisfied with the holding on the appeal to the Department may appeal to the court within such time as provided under the Civil Procedure law.

5. No fee shall be charged in connection with a request for reconsideration.

Article 56. Board of Appeals.

An Board of Appeals shall be constituted in accordance with Article 2 of this Decision to resolve administrative appeals relating to the grant, refusal, or any requirement made by the Department in connection with an application or issued patent or petty patent. The Board of Appeals shall be independent of any Division within the Department. The Committee may have permanent or temporary existence, provided that no person shall take part in deciding an administrative appeal of such person's own decision.

Article 57. Appeal Procedures.

1. An administrative appeal is initiated by filing a written appeal and paying the fee for such appeal. The appeal shall consist of a cover page; argument; and legal authority supporting the argument if available.

2. The cover page shall identify the application or patent or petty patent that is the subject of the appeal by title and number; the name of the applicant or patentee or petty patentee and the name of the party filing the appeal if other than the applicant or patentee or petty patentee; the date of the decision or requirement being appealed; and a brief statement identifying the decision or requirement that is the subject of the appeal.

3. The argument must specifically identify the issue that is being appealed, such as the Department's requirement to restrict a patent or petty patent application to a single invention, the Department's requirement to provide additional information, or the refusal of the application. The appeal shall comply with the requirements of this Decision regarding

correspondence with the Department.

4. The argument must also point out the legal basis for the appeal, referring specifically to relevant portions of the Intellectual Property Law or this Decision, and may include a statement by the applicant pointing out how the relevant legal basis supports the applicant's appeal. The argument may also refer to other authority that may be relevant to the issue and will be useful to the Board of Appeals in reaching its decision, including relevant portions of international agreements and decisions or rules of other jurisdictions.

5. Where the appeal relies in whole or in part on specific facts, the appeal shall identify such facts by reference to the application or previous correspondence with the Department.

6. Department personnel who participated in the decision being appealed may provide a similar statement of the legal and factual basis for the decision for consideration by the Appeals Committee. The person bringing the appeal shall have a single opportunity to submit a response to such statement, subject to the provisions of paragraphs 2, 3, and 4 of this article.

7. The Board of Appeals shall consider the appeal based on the written record as described in this article and shall render a decision in writing, which shall set forth the Board's decision and the legal and factual reasons therefor. Such decision shall be provided to the person bringing the appeal.

8. At the conclusion of the appeal, an application will be returned to the Department for such further action as may be appropriate, consistent with the holding of the Board of Appeals, unless the person bringing the appeal files an appeal to the Court within the time for filing such appeal as provided under the Law on Civil Procedure.

9. Where an appeal fails to provide the information required under paragraph 2 through 4 of this article, the Board of Appeals may summarily dismiss the appeal.

Article 58. Further Appeals.

An applicant or other party who is dissatisfied with the Department's decision or requirement following a request for reconsideration may appeal to the Department as set forth above. Filing a request for reconsideration is not a requirement for filing an appeal with the Department. An applicant or other party who is dissatisfied with the holding on the appeal to the Department may appeal to the court within such time as provided under the Law on Civil Procedure.

Article 59. Incorrectly Named Inventors or Designers; Capacity of Applicant.

1. At any time during the pendency of an application or during the term of a patent or petty patent, any interested person may petition the Department to correct the identification of inventors mentioned in the application. The Department shall notify the owner of record of such petition and, if no objection is made by the applicant or owner of record, the Department shall enter such correction. If an objection is made, the Department shall refuse to enter the requested information, and the interested party shall have recourse to the Courts pursuant to the Petitions Law.

2. Where it appears that an application has been filed by an applicant who is not entitled to file

such application, for example, where the applicant did not invent the subject matter of the application and does not have rights to the invention or utility innovation, the Department may require the applicant to secure such authorization from the true inventors or designers or from such other person as may be entitled to exercise rights of the inventor or designer as provided in the Intellectual Property Law. The Department shall fix a time within which such requirement must be met and shall suspend examination until such requirement is met within the time fixed.

3. An person who believes he or she is entitled to be named as inventor, or to file the application, may petition the Court pursuant to the Petitions Law for an order transferring ownership of the application or patent or petty patent to such person, or to add such person to the application as appropriate.

Article 60. Files or Papers that Cannot Be Located.

In the event that the Department cannot, after a reasonable search, locate a file or other paper relating to an application or other proceeding, the Department shall attempt to reconstitute its records through other sources. In such case, the Department may request the applicant or owner to provide a copy of such person's record (if any) of the relevant paper or of correspondence in the relevant file, together with a statement that the copy is a complete and accurate copy of the applicant's or owner's record of all of the correspondence between the Department and the such person for the relevant paper or file, or that the applicant or owner is aware of but does not possess other records of such correspondence with the Department.

SECTION X
Transfer of Rights and Resolution of Disputes

Article 61. Transfer of rights; recordation required.

1. Pursuant to Article 47 of the Intellectual Property Law, the owner of intellectual property may transfer ownership to all or part of the rights an invention or utility innovation; to an application for a patent or petty patent; or to any patent or petty patent resulting from such application.

2. Where there is a transfer of ownership of a legal entity, the ownership of rights to patents or petty patents shall be as set forth in the document providing for such transfer. In the absence of such provisions, transfer of ownership a legal entity is presumed to include a transfer of any inventions or designs owned by the entity being transferred, and of any patents or petty patents, or of applications therefor.

3. Rights to such property may also be transferred by inheritance or by gift.

4. Any transfer of ownership shall be recorded with the Department, using the form provided.

6. The Department may require the person presenting a transfer for recordation to submit additional information or documents where needed for clarification or where the Department may reasonably doubt the veracity of any indication contained in any communication.

7. A transfer of ownership shall not be enforceable against a person who is not party to the transfer until so recorded unless such person has actual notice of the transfer.

8. Where a single transfer relates to multiple files or applications, a single transfer document may be filed using the procedures of paragraph 4 of Article 5 of this Decision.

9. If the transfer is submitted for recordation by a person other than the owner of record, the Department shall send a written notification of the proposed transfer recordation and of the owner's right to object, to the owner of record at the latest address of record.

10. If the transfer appears to meet requirements for recordation, the Department shall publish a notice referring to the transfer.

Article 62. Licenses.

1. A license agreement may be recorded using the procedures of Article 42 of this Decision, in which case it shall be subject to the same requirements. Where rights to intellectual property are jointly held by multiple persons, a license shall be mutually agreed by all rights owners.

2. The sale of an item that is the subject of a patent or petty patent, or that incorporates subject matter that is the subject of a patent or patent, shall be assumed to grant a license to the purchaser and others acting on behalf of the purchaser to use the invention for such invention's intended use, and if the purchaser is a legal entity, in connection with such entity's ordinary business, where such sale is by the owner of the patent or petty patent, or by a person acting with the authority and permission of such owner, unless the parties to the transaction agree otherwise in writing.

3. The provisions of paragraph 2 of this article shall apply *mutatis mutandis* to the rental, lease, gift, or other transaction with regard to the item that is the subject of the patent or petty patent, provided however that where such transaction is limited in time or scope, such implied license shall likewise be limited to the same time and scope, and provided that where such transfer is a gift or if a sale, is for less than the market value of the transaction, the purchaser shall have the burden of demonstrating that the owner agreed to such transaction.

4. Where there is a transfer of ownership of a legal entity that is a licensee of one or more patents or petty patents, it shall be presumed that the licenses are transferred with the ownership of the legal entity unless specifically provided otherwise either in the license agreement or in the document providing for the transfer of ownership of the legal entity. Transfer of ownership of a legal entity shall not affect the validity of any license arrangement for which such entity is the licensor, unless otherwise specifically provided in the license agreement.

Article 63. Resolution of Disputes.

For purposes of the resolution of disputes or enforcement of rights pursuant to Section VIII of the Intellectual Property Law, the patent or petty patent owner shall have the right to enforce rights provided in Article 55 of the Intellectual Property Law. Any action with regard to the resolution of disputes or enforcement of rights shall be interpreted with reference to the claim or claims of the patent or petty patent as set forth in Article 20 of this Decision.

Section XI. Representation

Article 64. Persons Authorized to Appear before the Department.

1. Subject to the provisions of Article 6 of this Decision and paragraphs 2, 3, and 4 of this article, the following persons are authorized to appear before the Department:

- 1) An applicant, with regard to the applicant's own application;
- 2) Where more than one person jointly makes application, any one of such persons, subject to appointment by the other joint applicants;
- 3) An attorney who is authorized to practice law in the Lao PDR;
- 4) A Practitioner or Patent Practitioner as defined in this Section with regard to the subject matter for which such person is authorized to act; or
- 5) Where the applicant is an organization, the owner or an officer of such organization, or an attorney or agent employed by such organization;
- 6) An attorney or agent who is an employee of the applicant or assignee of the entire interest in the subject matter of the application.

2. Subject to the provisions of Article 6 of this Decision, any person may represent himself or herself or may appoint a representative to act with regard the to the filing and prosecuting of any application, or with regard to any action relating to a patent or petty patent, or in any other proceeding before this Department.

3. Notwithstanding the provisions of paragraph 1 of this article, an assignee of an application, an applicant, owner or other interested person may act before the Department for purposes of

- (i) The filing of an application for the purposes of receiving a filing date and receiving a filing receipt;
- (ii) The mere payment of any fee and receiving a receipt for such payment.

4. Any fee required to maintain an application in effect may be paid by any person.

Article 65. Appointment of Representative.

1. A representative is appointed by a power of attorney. The power of attorney must be signed by the applicant or other principal. Where an application is filed by joint inventors, the power of attorney must normally be signed by all of the joint inventors or designers unless one or more of such persons are dead or otherwise unavailable, or refuse to join in the application, in which case, such fact shall be stated in the correspondence to the Department.

2. Subject to Article 64 of this Decision and other requirements of this Section, a power of attorney may appoint more than one representative, provided that all such representatives have the same representation address.

Article 66. Power of Attorney.

1. A Power of Attorney authorizes a representative appointed in accordance with this Decision to act on behalf of the principal. Except where the signature of the applicant or other party to a proceeding is specifically required, an act, with respect to any procedure before the Department, by or in relation to a representative who complies with the requirements set forth herein, shall have the effect of an act by or in relation to the applicant, owner or other interested person who appointed that representative.

2. A Power of Attorney shall specify the nature and scope of the representation. A Power of Attorney may authorize the representative to represent the principal with regard to one or more matters before the Department, which shall be identified in the Power of Attorney, or it may relate to all matters before the Department including all existing and future applications or patents, petty patents, or registrations of that person, subject to any exception indicated by the appointing person. Likewise, a Power of Attorney may be given for an indefinite term or limited as to its duration. In all events, the Power of Attorney may be revoked by the principal at any time, without prejudice to the right of the representative to compensation for services rendered and expenses incurred on behalf of the principal during such representation.

3. The Department will give effect to the terms of the Power of Attorney except where it would be contrary to law or public policy to do so, for example, where a Power of Attorney purports to limit the ability of the principal to revoke the Power of Attorney or to provide terms of representation that are contrary to this Decision.

4. Where a Power of Attorney does not state the scope or duration of the representation, the Department will treat the Power of Attorney as applying solely to the single application or other proceeding in connection with which the Power of Attorney is originally submitted, and its duration will be treated as terminating when all matters related to such application or other proceeding are concluded and the time for further action thereon has expired.

5. In the absence of evidence to the contrary, a representative will be presumed to act in accordance with instructions of the principal or in accordance with such principal's wishes.

Article 67. Requirements for Giving Effect to Power of Attorney.

1. To be given effect by the Department, a Power of Attorney shall be in writing and signed by the principal. Such signature shall be notarized or legalized, at the option of the principal.

Where more than one person is principal, for example, in the case of joint inventors, the power of attorney shall be signed by all of them unless good reason is shown why one or more of such persons has not signed.

Where the principal is a legal entity, the power of attorney shall be signed by the owner of such entity or by an officer or other person with the legal authority to bind the organization.

2. Such document shall be identified as a Power of Attorney and shall

- 1) Give the representative power to act on behalf of the principal and
- 2) Name one or more representatives in accordance with Article 48.

3. Where the Power of Attorney is in a foreign language, it shall conform to the language requirements of the Intellectual Property Law and this Decision.

4. Where there is reasonable doubt as to the authenticity of a Power of Attorney or as to a representative's authority to act, the Department may require such authentication or confirmation as it deems appropriate in the circumstances, including, for example, correspondence from the principal.

Article 68. Power of Attorney for Multiple Matters.

Where a Power of Attorney relates to multiple applications, files, or proceedings, it shall be sufficient to supply one Power of Attorney that satisfies the requirements of this Section and to submit a copy of such Power of Attorney with other applications, files, or proceedings, provided that the copy identifies the application number for the file where the original power of attorney is filed.

Article 69. Power of Attorney: When Presented; Effect of Failure to File.

1. A power of attorney, duly signed, shall be presented with the first application or other action to which it pertains.
2. Where an application or other paper is presented by a representative but the power of attorney, or where applicable, a copy thereof, is not submitted with such application or other paper, the Department shall provisionally accept such application or other paper and notify the Representative to provide the power of attorney within 60 days from such notification.
3. Failure to present the power of attorney at such initial action shall not invalidate such filing where representation is not mandatory. Where representation is mandatory, failure to present the power of attorney shall not invalidate such filing provided the applicant or other party provides a power of attorney within the time provided in the Intellectual Property Law and this Decision.
4. If the Power of Attorney is not provided within 60 days of the notification, the Department shall change the correspondence address to that of the applicant or other principal and notify such person directly that it has 60 days in which to appoint a representative and provide the Power of Attorney, and the consequences of failing to comply with such requirements, which may include suspending action on the application or other matter or, if representation is mandatory, abandonment of the application or other filing.
5. The Department may refuse to accept further correspondence from the Representative in connection with such application or other proceeding until the Power of Attorney is submitted.
6. Correspondence from an agent or attorney who presents a new power of attorney with a different representation address is presumed to revoke the previous power of attorney unless the Department is promptly informed otherwise. Where the new power of attorney has the same representation address, the Department will assume that the previous power of attorney remains in effect unless the Department is promptly informed otherwise.

Article 70. Termination of Representation.

1. Representation terminates when a power of attorney is revoked by the principal, when the matter that is the subject of the representation is concluded as provided in the power of attorney or as otherwise provided in this Decision, or when the representative withdraws from the representation and such withdrawal is accepted by the Department as provided herein, whichever is earlier.
2. Where the Department receives a power of attorney appointing a different agent, it shall notify the representative of record unless it appears on the face of the new power of attorney

that such notification has already been effected.

3. A representative who withdraws must notify the Department and the principal of such withdrawal. The Department will notify the principal of such withdrawal unless it appears on the face of the communication that such person has already been notified. Such withdrawal shall be accepted by the Department unless it occurs in an application or other matter on which action is due and insufficient time remains for the principal to take such action or, if representation is mandatory, for the principal to obtain other representation and take such action.

4. The termination of representation or appointment of a new representative shall have no effect on an application or other action that was filed by a previous representative, subject however to the requirement of mandatory representation where applicable.

Article 71. Persons Authorized to Act as Representatives Before the Department.

1. Any person who is of good moral character and possesses the knowledge of intellectual property and the education to carry out the duties of representative, and who has an address in the Lao PDR, may be authorized to be a Practitioner and represent others before the Department, subject to other requirements of this article.

2. Any agent or attorney who, as of the effective date of this Decision, has practiced before the Department for at least one year shall be presumed to satisfy the qualifications of paragraph 1 of this article.

3. Any person who satisfies the qualifications of paragraph 1 of this article may be authorized to become a Patent Practitioner if such person has a technical education and demonstrates a knowledge of patent law and practice sufficient to enable such person to prepare and prosecute an original patent application. The Department may provide by Notice the qualifications that will be accepted and may administer such examinations as may be required to determine whether such persons meet the relevant qualifications.

Article 72. Registration Required; Practitioner List Published.

1. Any person wishing to act as a representative before the Department shall register as a Practitioner or Patent Practitioner. By registering, such person agrees to carry out his or her duties faithfully and in accordance with the provisions of this Decision and with other Decisions or Notices issued by the Ministry on requirements for carrying out the business of being a representative on intellectual property.

2. To register, such person shall indicate his or her name and address; representation address if different from such person's address; telephone number or numbers, facsimile and email address, or other contact information as applicable; languages; whether such person is qualified as a Patent Practitioner and if so, such person's general area of technical expertise; website if applicable; and areas of practice. Where such person's representations address or other contact information changes, such person shall promptly inform the Department of the current information.

3. The Department shall maintain a list of Practitioners and Patent Practitioners who are authorized to represent applicants or other persons in transacting business before the Department. The Practitioner List shall include such information as provided in paragraph 2 of this article. The Department shall publish such list annually and may provide a copy thereof to any person upon request but shall not recommend or aid in the selection of an attorney or agent.

4. The provisions of this article shall take effect not later than three months from the effective date of this Decision.

Article 73. Implementation through Instructions and Notices.

Consistent with Article 147 of the Intellectual Property Law, the Department shall issue instructions and notices and take such other actions as may be necessary to carry out the provisions of this Section.

Article 74. Continued Requirements for Practitioners and Patent Practitioners.

1. The Department may from time to time issue other requirements for Practitioners and Patent Practitioners, including attendance at continuing education provided by the Department.

2. Practitioners and Patent Practitioners who are registered as provided in this Section are under a continuing obligation to act in accordance with the Intellectual Property Law, this Decision, and any other applicable law, decision, or notice. Any person found to act contrary to this paragraph may be advised to correct such acts and if not promptly corrected, or if repeated, may be subject to sanctions by the Department. Such sanctions may include suspension or removal from the list of registered Practitioners or Patent Practitioners.

**SECTION XII
Administrative Provisions**

Article 75. Secrecy and Access to Files.

1. Files and documents relating to applications that are pending before the Department and that have not yet been published shall be maintained in secrecy. No person other than the applicant or a named inventor or designer shall have access to such files or the information contained therein without written permission from the applicant. A power of attorney is considered to grant such permission.

2. Files and documents relating to applications that have been published, and to patents or petty patents, shall be available for public inspection and copying during normal business hours, subject to payment of applicable fees. Where requests for inspection or copying involve a large number of documents or multiple files, the Department may make reasonable provisions, such as requiring an appointment or limiting the number of documents or files available on a single day, as needed to ensure its orderly conduct of business.

3. No files or documents therein shall be altered, destroyed, or removed from the premises of the Department. The Department may bar any person found to be violating this paragraph, or attempting to do so, from future access to documents and files of the Department.

Article 76. Communication with the Department.

1. All business with the Department relating to a patent or petty patent, an application therefor, or any proceeding before the Department, should be transacted in writing. The action of the Department will be based exclusively on the written record in the Department, and no attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.
2. All persons are required to conduct their business with the Department with decorum and courtesy. Papers presented in violation of this requirement may be refused entry.
3. Since each file must be complete in itself, a separate copy of every paper to be filed in connection with a file for a patent or petty patent, or with an application therefor, or with any other proceeding, must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical. The Department may dispose of duplicate copies of correspondence in the file of an application, patent or petty patent, or other proceeding.
4. Where the same document relates to more than one file, it shall be sufficient to provide a single original that complies with all applicable requirements for such document together with a copy of the original for each file and an indication on such copy of the file with which the original is associated.
5. The Department will correspond with only one person or entity. This person or entity may be the applicant or intellectual property owner or other party to a proceeding before the Department, or may be such person's authorized representative. Initial correspondence in any matter is required to include an address for correspondence, which address may be changed at any time. Where more than one address is presented, the Department will choose one of the addresses for correspondence. If the party is represented, the correspondence address will be presumed to be the correspondence address of the representative.
6. Where there is a change of correspondence address or the appointment of a new or substitute representative, the applicant or other party should promptly notify the Department of such change and should include a separate document of notification for each application or patent or petty patent to which the information relates.

Article 77. Identification of Documents.

1. Each item of correspondence relating to a patent or petty patent, or to an application therefor, or to any proceeding within the Department, should bear on the top page in a conspicuous location an indication of the nature of the correspondence, such as patent application, request for extension of time, amendment, response to Department communication, appeal, or payment of fees.
2. If the correspondence relates to an application that has already been filed or to an issued patent or petty patent, the correspondence should also bear the filing number of the application or number of the patent or petty patent, as applicable; the name of the applicant or inventor, as applicable; and the title of the invention or utility innovation, as appropriate. In addition, unless it is impractical, each page and each item enclosed with the correspondence should bear

at least the filing number of the application or number of the patent or petty patent to which it refers, For items such as drawings or pictures, such information may be recorded on the reverse side of the item in pencil or on a label.

3. Correspondence relating to an application should ordinarily not be filed prior to receipt of the application number from the Department.

Article 78. Form of Correspondence.

1. Correspondence with the Department relating to patents or petty patents, or applications therefor, or to any proceeding within the Department, should be made on flat, non-shiny paper that is A4 in size and recorded in dark ink or its equivalent. Correspondence must be legible and subject to photocopying as needed. Bulky items should not be submitted except with the express permission of the Department.

2. Documents and drawings or photographs submitted to the Department should be clear and of suitable quality for publication. Where such items are not of suitable quality for publication, the Department may accept such items for purposes of examination but may require the submission of publication-quality documents, drawings, or photographs prior to final approval of the application.

3. Where needed to illustrate the subject matter of an application, the applicant should provide high-quality drawings in black and white. Photographs or color images will be accepted for examination purposes but the applicant must submit corrected drawings prior to publication. Where photographs or color images are required for an understanding of the subject matter, the application should so state, and the use of such photographs or color images is subject to the payment of a surcharge on the publication fee. Where photographs are used, the applicant must provide copies that are of sufficient quality so that all details in the photographs are reproducible in the publication and in the printed patent.

4. If items submitted are not legible or are not of sufficient clarity to enable the Department to conduct an examination, the Department shall so notify the applicant and provide an opportunity for the applicant to submit corrected documents. Where such new documents relate to the subject matter of the application, their acceptance will be subject to requirements related to changes in the content of an application.

Article 79. Documents to be Signed; Effect of Signature.

1. Every application, amendment, request for extension of time, submission of documents, or other paper submitted to the Department in connection with a patent or petty patent, or application therefor, or with any proceeding within the Department, must be signed by the applicant or intellectual property holder or other person submitting the document, or by such person's representative. Unless specifically provided, the signature does not need to be verified or certified. The Department may refuse to enter an unsigned paper unless the omission is promptly corrected after being called to the attention of the person submitting the document or on whose behalf the document is being submitted, or the representative of such persons.

2. By signing a document, by submitting a signed document, or by later advocating it, the person signing such paper, and the person presenting such paper, certify that

- 1) All statements made therein of such person's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Department, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or knowingly and willfully makes any false, fictitious, or fraudulent statement or representation, or knowingly and willfully makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be subject to the penalties for making a false statement, and that violations of the provisions of this article may jeopardize the probative value of the paper; and
- 2) To the best of such person's knowledge, information and belief, formed after an inquiry reasonable under the circumstances,

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of any proceeding before the Department;

(ii) Legal contentions therein are warranted by existing law or by a non-frivolous argument for the extension or modification of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

3. Violations of any of paragraphs (2)(i) through (iv) of this article are, after notice and reasonable opportunity to respond, subject to such sanctions or actions as deemed appropriate by the Director, which may include, but are not limited to, any combination of

- 1) Striking the offending paper;
- 2) Referring a practitioner's conduct to the Director disciplinary action;
- 3) Precluding a practitioner or other person from submitting a paper, or presenting or contesting an issue;
- 4) Affecting the weight given to the offending paper; or
- 5) Terminating the proceedings in the Department.

4. Any practitioner violating the provisions of this article may be subject to disciplinary action.

5. Where the Department has reasonable doubt as to the authenticity of a signature, in particular, where there are variations in the appearance of a signature or where the signature and typed or printed name do not clearly identify the person signing, the Department may require the submission of a document ratifying or confirming the document in question or evidence of the authenticity of the signature.

Article 80. Times for Taking Action; Expiration on Saturday, Sunday or National Holiday.

1. Wherever the Law, this Decision, or communication by the Department specifies a time for taking action or paying a fee, such period shall be calculated as follows:

If the period is stated in days, calendar days are intended, and the period shall be calculated by excluding the first day and including the final day. If the period is stated in months or years, the period shall expire on the same date of the relevant month or year.

2. If the last day of the period is an official holiday, or a day when the Department is not open for business, the period shall be extended until the first following working day.
3. The Director General may provide for an extension of time based on a delay or loss of mail service caused by war, revolution, civil disorder, strike, natural calamity or other like reasons.
4. Except as provided in this Article, the period for filing an application for a patent or registration shall not be extended.

Section XIII Registration and Service Fees

Article 81.

Article 82.

SECTION XIV Final Provisions

Article 83. Implementation.

Article 84. Effective Date.

This Regulation shall enter into force on the date of its signature.

Minister
of Science and Technology