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

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

ANTIGUA AND BARBUDA

The present document reproduces the text¹ of the Patents Bill 2001, as notified by Antigua and Barbuda under Article 63.2 of the Agreement (see document IP/N/1/ATG/1).

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

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

ANTIGUA-ET-BARBUDA

Le présent document contient le texte¹ du projet de loi sur les brevets de 2001, notifié par Antigua-et-Barbuda au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/ATG/1).

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

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

ANTIGUA Y BARBUDA

En el presente documento se reproduce el texto¹ del proyecto de Ley de Patentes, de 2001, que Antigua y Barbuda notificó de conformidad con lo dispuesto en el párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/ATG/1).

¹ In English only./En anglais seulement./En inglés solamente.

ANTIGUA AND BARBUDA

BILL FOR

The PATENTS ACT 2001

Table of Contents

PART I: PATENTS

Section 1:	Short title
Section 2:	Interpretation; Matter Excluded from Patent Protection
Section 3:	Patentable Inventions
Section 4:	Right to Patent; Naming of Inventor
Section 5:	Application
Section 6:	Unity of Invention; Amendment and Division of Application
Section 7:	Right of Priority
Section 8:	Information Concerning Corresponding Foreign Applications and Patents
Section 9:	Filing Date; Examination
Section 10:	Grant of Patent; Changes in Patents
Section 11:	Rights Conferred by Patent
Section 12:	Duration; Annual Fees
Section 13:	Exploitation by Government or Person thereby Authorized
Section 14:	Non-Voluntary Licences
Section 15:	Invalidation

PART II: INTERNATIONAL APPLICATIONS UNDER THE PATENT COOPERATION TREATY

Section 16:	Interpretation of Terms Concerning the PCT
Section 17:	Filing Date and Effects of International Application Designating Antigua and Barbuda
Section 18:	Intellectual Property Registry as Receiving Office
Section 19:	Filing of International Applications with the Intellectual Property Registry
Section 20:	Intellectual Property Registry as Designated Office
Section 21:	Intellectual Property Registry as Elected Office

- Section 22: National Processing
- Section 23: Entering National Phase
- Section 24: Failure to Enter National Phase
- Section 25: Processing International Applications in Accordance with the PCT

PART III: UTILITY MODEL CERTIFICATES

- Section 26: Applicability of Provisions Relating to Patents
- Section 27: Special Provisions Relating to Utility Model Certificates
- Section 28: Conversion of Patent Applications or Applications for Utility Model Certificates

PART IV: GENERAL PROVISIONS

- Section 29: Changes in Ownership; License Contracts
- Section 30: Agents
- Section 31: Registers; Official Bulletin
- Section 32: Corrections of Errors; Extension of Time
- Section 33: Competence of Courts; Appeals
- Section 34: Infringement; Unlawful Acts; Offences
- Section 35: Application of International Treaties
- Section 36: Regulations
- Section 37: Repeals; Transitional Provisions

ANTIGUA AND BARBUDA

PATENTS ACT

NO OF 2001

BILL FOR

AN ACT to make provision for the registration of patents and other purposes related thereto.

ENACTED by the Parliament of Antigua and Barbuda as follows –

PART I: PATENTS

Short title

1. This Act may be cited as the Patents Act 2001

Interpretation;
Matter Excluded
from Patent
Protection

2. (1) In this Act,

- (i) “Court” means the High Court;
- (ii) “invention” means an idea of an inventor which permits in practice the solution to a specific problem in the field of technology and an invention may be, or may relate to, a product or a process;
- (iii) “Intellectual Property Registry” means the Intellectual Property Registry established under the Registrar of Intellectual Property Act 2001;
- (iv) “Minister” means the Minister responsible for intellectual property;
- (v) “patent” means the title granted to protect an invention;
- (vi) “Registrar” means the person holding office of Registrar of Intellectual Property appointed under the Registrar of Intellectual Property Act 2001;
- (vii) “utility model certificate” means a certificate referred to in section 26.

(2) The following, even if they are inventions within the meaning of subsection (1), shall be excluded from patent protection:

- (i) discoveries, scientific theories and mathematical methods;
- (ii) schemes, rules or methods for doing business, performing purely mental acts or playing games;
- (iii) methods for treatment of the human or animal body by surgery or therapy, as well as diagnostic methods practiced on the human or animal body; this provision shall not apply to products for use in any of those methods.
- (iv) plants and animals other than micro organisms
- (v) essentially biological processes for the production of plants or animals other than non-biological and microbiological processes
- (vi) plant varieties
- (vii) inventions, the prevention within Antigua and Barbuda of the commercial exploitation of which is necessary to protect public order or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by law.

Patentable Inventions

3 .(1) An invention is patentable if it is new, involves an inventive step and is industrially applicable.

(2) An invention is new if it is not anticipated by prior art.

(3) Prior art shall consist of everything disclosed to the public, anywhere in the world, by publication in tangible form or by oral disclosure, by use or in any other way, prior to the filing or, where appropriate, the priority date, of the application claiming the invention.

(4) For the purposes of paragraph (3), disclosure to the public of the invention shall not be taken into consideration if it occurred within twelve months

preceding the filing date or, where applicable, the priority date of the application, and if it was by reason or in consequence of acts committed by the applicant or his predecessor in title or of an abuse committed by a third party with regard to the applicant or his predecessor in title.

(5) An invention shall be considered as involving an inventive step if, having regard to the prior art relevant to the application claiming the invention and as defined in subsection (3), it would not have been obvious to a person having ordinary skill in the art.

(6) An invention shall be considered industrially applicable if it can be made or used in any kind of industry. "Industry" shall be understood in its broadest sense; it shall cover, in particular, handicraft, agriculture, fishery and services.

Right to Patent and
Naming of Inventor

4 .(1) The right to a patent shall belong to the inventor.

(2) If two or more persons have jointly made an invention, the right to the patent shall belong to them jointly.

(3) If and to the extent to which two or more persons have made the same invention independently of each other, the person whose application has the earliest filing date or, if priority is claimed, the earliest validly claimed priority date shall have the right to the patent, as long as the said application is not withdrawn, abandoned or rejected.

(4) The right to a patent may be assigned, or may be transferred by succession.

(5) Where an invention is made in execution of an employment contract, the right to the patent shall belong, in the absence of contractual provisions to the contrary, to the employer.

(6) The inventor shall be named as such in the patent, unless in a special written declaration signed by him and addressed to the Registrar he indicates that he wishes not to be named. Any promise or undertaking by the inventor made to any person to the effect that he will make such a declaration shall be without legal effect.

Application

5. (1) The application for a patent shall be filed with the

Registrar and shall contain a request, a description, one or more claims, one or more drawings (where required), and an abstract.

(2) The application for a patent shall be subject to the payment of the prescribed application fee.

(3) The request under subsection (1) shall contain a petition to the effect that a patent be granted, the name of and other prescribed data concerning the applicant, the inventor and the agent, if any, and the title of the invention.

(4) Where the applicant is not the inventor, the request under subsection (1) shall be accompanied by a statement justifying the applicant's right to the patent.

(5) The description shall disclose the invention in a manner sufficiently clear and complete for the invention to be carried out by a person having ordinary skill in the art, and shall, in particular, indicate at least one mode known to the applicant for carrying out the invention.

(6) The claim or claims shall define the matter for which protection is sought and the description and the drawings may be used to interpret the claims.

(7) Claims shall be clear and concise and shall be fully supported by the description.

(8) Drawings shall be required when they are necessary for the understanding of the invention.

(9) The abstract shall merely serve the purpose of technical information; in particular, it shall not be taken into account for the purpose of interpreting the scope of the protection.

(10) The applicant may, up to the time when the application is in order for grant, withdraw the application at any time during its pendency.

Unity of Invention;
Amendment and
Division of
Application

6.(1) The application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept.

(2) The applicant may, up to the time when the application is in order for grant, amend the application, provided that the amendment shall not go beyond the disclosure in the initial application.

(3) The applicant may, up to the time when the application is in order for grant, divide the application into two or more applications (“divisional applications”), but each divisional application shall not go beyond the disclosure in the initial application.

(4) Each divisional application shall be entitled to the filing date and, where applicable, the priority date of the initial application.

(5) The fact that a patent has been granted on an application that did not comply with the requirement of unity of invention under subsection (1) shall not be a ground for the invalidation of the patent.

Right of Priority

7.(1) The application may contain a declaration claiming the priority, as provided for in the Paris Convention, of one or more earlier national, regional or international applications filed by the applicant or his predecessor in title in or for any State party to that Convention or any Member of the World Trade Organization.

(2) Where the application contains a declaration under subsection (1), the Registrar may request that the applicant furnish, within the prescribed time limit, a copy of the earlier application certified as correct by the Office with which it was filed.

(3) The effect of the declaration shall be as provided in the Paris Convention.

(4) If the Registrar finds that the requirements under this Section and the Regulations have not been fulfilled, the declaration shall be considered not to have been made.

Information Concerning Corresponding Foreign Applications and Patents

8.(1) The applicant shall, at the request of the Registrar, furnish him with the date and number of any application for a patent filed by him abroad (“foreign application”) relating to the same or essentially the same invention as that claimed in the application filed with the Intellectual Property Registry.

(2) The applicant shall, at the request of the Registrar, furnish him with the following documents

relating to one of the foreign applications referred to in subsection (1):

- (a) a copy of any communication received by the applicant concerning the results of any search or examination carried out in respect of the foreign application;
- (b) a copy of the patent granted on the basis of the foreign application;
- (c) a copy of any final decision rejecting the foreign application or refusing the grant requested in the foreign application.

(3) The applicant shall, at the request of the Registrar, furnish him with a copy of any final decision invalidating the patent granted on the basis of the foreign application referred to in Subsection (2).

(4) Subsection (2)(a) and (c) shall not apply in respect of information relating to the examination of the same international application in another elected Office where the Intellectual Property Registry is an elected Office in the meaning of Section 16 and has received or will receive an international preliminary examination report.

Filing Date;
Examination

9.(1) The Registrar shall accord as the filing date the date of receipt of the application, provided that, at the time of receipt, the application contains:

- (a) an express or implicit indication that the granting of a patent is sought;
- (b) indications allowing the identity of the applicant to be established;
- (c) a part which, on the face of it, appears to be a description of an invention.

(2) If the Registrar finds that the application did not, at the time of receipt, fulfill the requirements referred to in Subsection (1), he shall invite the applicant to file the required correction and shall accord as the filing date the date of receipt of the

required correction, but if no correction is made, the application shall be treated as if it had not been filed.

(3) Where the application refers to drawings which in fact are not included in the application, the Registrar shall invite the applicant to furnish the missing drawings. If the applicant complies with the said invitation, the Registrar shall accord as the filing date the date of receipt of the missing drawings. Otherwise, the Registrar shall accord as the filing date the date of receipt of the application and shall treat any reference to the said drawings as non-existent.

(4) After according a filing date, the Registrar shall examine whether the application complies with the requirements of Section 5(1), (2), (3) and (4) and the Regulations pertaining thereto and those requirements of this Act and the Regulations which are designated by the Regulations as formal requirements for the purposes of this Act and whether information requested under Section 8, if any, has been provided.

(5) Where the Registrar is of the opinion that the application complies with the requirements indicated in subsection (4), the Registrar shall take a decision as to whether the requirements of Sections 2(1)(ii) and (2), 3, 5(5), (6), (7) and (8) and 6 and the Regulations pertaining thereto are fulfilled and for this purpose may, as provided for in the Regulations, cause the application to be examined.

(6) The Registrar shall take into account, for the purposes of subsection (5),

- (i) the results of any international search report and any international preliminary examination report established under the PCT in relation to the application; and/or
- (ii) a search and examination report submitted under Section 8(2)(a) relating to, or a final decision submitted under Section 8(2)(c) on the refusal to grant a patent on, a corresponding foreign application; and/or
- (iii) a search and examination report which was carried out upon his request by an

external search and examination
authority.

Grant of Patent;
Changes in Patents

10. (1) Where the Registrar finds that the conditions referred to in Section 9(4) are fulfilled, he shall grant the patent; or he shall refuse the application and notify the applicant of that decision.

(2) When he grants a patent, the Registrar shall:

- (a) publish a reference to the grant of the patent;
- (b) issue to the applicant a certificate of the grant of the patent and a copy of the patent;
- (c) record the patent;
- (d) make available copies of the patent to the public, on payment of the prescribed fee.

(4) The Registrar shall, upon request of the owner of the patent, make changes in the text or drawings of the patent in order to limit the extent of the protection conferred thereby, provided that the change would not result in the disclosure contained in the patent going beyond the disclosure contained in the initial application on the basis of which the patent was granted.

Rights Conferred by
Patent

11.(1) The exploitation of the patented invention in Antigua and Barbuda by persons other than the owner of the patent shall require the latter's agreement.

(2) For the purposes of this Act, "exploitation" of a patented invention means any of the following acts:

(a) when the patent has been granted in respect of a product:

- (i) making, importing, offering for sale, selling and using the product;

- (ii) stocking such product for the purposes of offering for sale, selling or using;

(b) when the patent has been granted in respect of a process:

- (i) using the process;
- (ii) doing any of the acts referred to in paragraph (a) in respect of a product obtained directly by means of the process.

(3) The owner of the patent shall, in addition to any other rights, remedies or actions available to him, have the right, subject to subsection (4), Section 13 and 14, to institute court proceedings against any person who infringes the patent by performing, without his agreement, any of the acts referred to in subsection (2) or who performs acts which make it likely that infringement will occur.

(4)(1) The rights under the patent shall not extend:

- (a) to acts in respect of articles which have been put on the market in any country by the owner of the patent or with his consent; or
- (b) to the use of articles on aircraft, land vehicles or vessels of other countries which temporarily or accidentally enter the airspace, territory or waters of Antigua and Barbuda; or
- (c) to acts done only for experimental purposes relating to a patented invention; or
- (d) to acts performed by any person who in good faith, before the filing or, where priority is claimed, the priority date of the application on which the patent is granted and in Antigua and Barbuda, was using the invention or was making effective and serious preparations for such use.

(2) The right of prior user referred to in subsection (1) (d) may be transferred or devolve only together with the enterprise or business, or with that part of the enterprise or business, in which the use or preparations for use have been made.

5 (a) For the purposes of civil proceedings in respect of the infringement of rights of the owner, if the subject matter of a patent is a process for obtaining a product, the court may order the defendant to prove that the process used to obtain an identical product is different from the patented process.

(b) Any identical product when produced without the consent of the patent owner shall, in the absence of proof to the contrary, be deemed to have been obtained by the patented process, if the product obtained by the patented process is new.

(6) In requiring the production of evidence, the Court before which the proceeding referred to in subsection (5) take place shall take into account the legitimate interests of the alleged infringer in not disclosing his manufacturing and business secrets.

Duration and
Annual Fees

12.(1) Subject to subsection (2), a patent shall expire 20 years after the filing date of the application for the patent.

(2) In order to maintain the patent or patent application, an annual fee shall be paid in advance to the Registrar for each year, starting one year after the filing date of the application for grant of the patent.

(3) A period of grace of six months shall be allowed for the late payment of the annual fee on payment of the prescribed surcharge.

(4) If the annual fee is not paid in accordance with the provisions of this section, the patent application shall be deemed to have been withdrawn or the patent shall lapse.

Exploitation by Government
or Person thereby Authorized

13.(1) Where

- (a) the public interest, in particular, national security, nutrition, health or the development of other vital sectors of the national economy so requires, or
- (b) the [Registrar]* has determined that the manner of exploitation, by the owner of the patent or his licensee, is anti-competitive, and the Minister is satisfied that the exploitation of the invention in accordance with this subsection would remedy such practice,

the Minister may decide that, even without the agreement of the owner of the patent, a Government agency or a third person designated by the Minister may exploit the invention.

(2) The exploitation of the patented invention shall be limited to the purpose for which it was authorized and shall be subject to the payment to the owner of an adequate remuneration therefor, taking into account the economic value of the Minister's authorization, as determined in the decision, and, where a decision has been taken under paragraph (b) of subsection (1), the need to correct anti-competitive practices.

(3) A request for the Minister's authorization shall be accompanied by evidence that the owner of the patent has received, from the person seeking the authorization, a request for a contractual licence, but that that person has been unable to obtain such a licence on reasonable commercial terms and conditions and within a reasonable time.

(4) Subsection (3) shall not apply in cases of

- (a) national emergency or other circumstances of extreme urgency provided, however, that in such cases the owner of the patent shall be notified

* TRIPS Article 31(c) and (k) refer to "a practice determined after judicial or administrative process to be anti-competitive..." One could provide for a court procedure or, if there is a competent administrative authority in Antigua and Barbuda under a Fair Trading Act or the equivalent, the procedure thereunder;

of the Minister's decision as soon as reasonably practicable,

- (b) public non-commercial use, and
 - (c) anti-competitive practices determined as such by a judicial or administrative body in accordance with subsection (1)(b).
- (5) The exploitation of a patented invention in the field of semi-conductor technology shall only be authorized either for public non-commercial use or where a judicial or administrative body has determined that the manner of exploitation of the patented invention, by the owner of the patent or his licensee, is anti-competitive and if the Minister is satisfied that the issuance of the non-voluntary licence would remedy such practice.
- (6) The authorization shall not exclude:
- (a) the conclusion of licence contracts by the owner of the patent; or
 - (b) the continued exercise, by the owner of the patent, of his rights under Section 11(2); or
 - (c) the issuance of a non-voluntary licence under Section 14.
- (7) Where a third person has been designated by the Minister, the authorization may only be transferred with the enterprise or business of that person or with the part of the enterprise or business within which the patented invention is being exploited.
- (8) The exploitation of the invention by the Government agency or third person designated by the Minister shall be predominantly for the supply of the market in Antigua and Barbuda.
- (9) Upon request of the owner of the patent, of the Government agency or of the third person

authorized to exploit the patented invention, the Minister may, after hearing the parties, if either or both wish to be heard, vary the terms of the decision authorizing the exploitation of the patented invention to the extent that changed circumstances justify such variation.

- (10) Upon the request of the owner of the patent, the Minister shall terminate the authorization if he is satisfied, after hearing the parties, if either or both wish to be heard, that the circumstances which led to his decision have ceased to exist and are unlikely to recur or that the Government agency or third person designated by him has failed to comply with the terms of the decision.
- (11) Notwithstanding subsection (10), the Minister shall not terminate the authorization if he is satisfied that the need for adequate protection of the legitimate interests of the Government agency or third person designated by him justifies the maintenance of the decision.
- (12) The decisions of the Minister under subsections (1) to (11) may be the subject of an appeal before the High Court.

Non-Voluntary Licences

14 (1) On request, made to the Registrar after the expiration of a period of four years from the date of filing of the patent application or three years from the date of the grant of the patent, whichever period expires last, the Registrar may issue a non-voluntary licence if he is satisfied that the patented invention is not exploited or is insufficiently exploited, by working the invention locally or by importation, in Antigua and Barbuda.

(2) Notwithstanding subsection (1), a non-voluntary licence shall not be issued if the owner of the patent satisfies the Registrar that circumstances exist which justify the non-exploitation or insufficient exploitation of the patented invention in Antigua and Barbuda.

(3) The decision issuing the non-voluntary licence shall fix

- (a) the scope and function of the licence,
- (b) the time limit within which the licensee must begin to exploit the patented invention, and
- (c) the amount of the remuneration to be paid to the owner of the patent and the conditions of payment.

(4) The beneficiary of the non-voluntary licence shall have the right to exploit the patented invention in Antigua and Barbuda according to the terms set out in the decision issuing the licence, shall commence the exploitation of the patented invention within the time limit fixed in the said decision and, thereafter, shall exploit the patented invention sufficiently.

(5) If the invention claimed in a patent ("later patent") cannot be exploited in the country without infringing a patent granted on the basis of an application benefiting from an earlier filing or, where appropriate, priority date ("earlier patent"), and provided that the invention claimed in the later patent involves an important technical advance of considerable economic importance in relation to the invention claimed in the earlier patent, the Registrar, upon the request of the owner of the later patent, may issue a non-voluntary licence to the extent necessary to avoid infringement of the earlier patent.

(6) Where a non-voluntary licence is issued under subsection (5), the Registrar, upon the request of the owner of the earlier patent, shall issue a non-voluntary licence in respect of the later patent.

(7) In the case of a request for the issuance of a non-voluntary licence under subsections (5) and (6), subsection (2) shall apply *mutatis mutandis* with the proviso that no time limit needs to be fixed.

(8) In the case of a non-voluntary licence issued under subsection (5), the transfer may be made only with the later patent, or, in the case of a non-voluntary

licence issued under subsection (6), only with the earlier patent.

(9) The request for the issuance of a non-voluntary licence shall be subject to payment of the prescribed fee.

(10) Section 13 (2) to (10) shall apply *mutatis mutandis*.

Invalidation

15.(1) Any interested person may request the court to invalidate a patent.

(2) The court shall invalidate the patent if the person requesting the invalidation proves that any of the requirements of Sections 2(1)(ii), (2), 3 and 5(5), (6), (7) and (8) is not fulfilled or if the owner of the patent is not the inventor or his successor in title.

(3) Any invalidated patent, or claim or part of a claim, shall be regarded as null and void from the date of the grant of the patent.

(4) The final decision of the court shall be notified to the Registrar who shall record it and publish a reference thereto as soon as possible.

PART II: INTERNATIONAL APPLICATIONS UNDER THE PATENT COOPERATION TREATY

Interpretation of Terms Concerning the PCT

16. For the purposes of this Act:

- (i) "Patent Cooperation Treaty" means the Patent Cooperation Treaty done at Washington on June 19, 1970;
- (ii) "designate," "designated Office," "elect," "elected Office," "international application," "international filing date," "international preliminary examination" and "receiving Office" have the same meanings as in the Patent Cooperation Treaty.

Filing Date and
Effects of International
Application Designating
Antigua and Barbuda

17. An international application designating Antigua and Barbuda shall, subject to this Part, be treated as an application for a patent filed under this Act having as its filing date the international filing date accorded under the Patent Cooperation Treaty.

Intellectual Property Registry
as Receiving Office

18.(1) The Intellectual Property Registry shall, unless an agreement is in force under subsection (2), act as a receiving Office in respect of any international application filed with it by a resident or national of Antigua and Barbuda.

(2) With the consent of the Minister, the Intellectual Property Registry may make an agreement of the kind referred to in Rule 19.1(b) of the Regulations under the Patent Cooperation Treaty whereby an intergovernmental organization or the national Office of another Contracting State of the Patent Cooperation Treaty shall act instead of the Intellectual Property Registry as receiving Office for applicants who are residents or nationals of Antigua and Barbuda.

Filing of International
Applications with the
Intellectual Property Registry

19. An international application filed with the Intellectual Property Registry as receiving Office shall be filed in the prescribed language and the prescribed transmittal fee shall be paid to the Intellectual Property Registry.

Intellectual Property Registry
as Designated Office

20. The Intellectual Property Registry shall act as a designated Office in respect of an international application in which Antigua and Barbuda is designated for the purposes of obtaining a national patent under this Act.

Intellectual Property Registry
as Elected Office

21. The Intellectual Property Registry shall act as an elected Office in respect of an international application in which Antigua and Barbuda is designated as referred to in Section 20 if the applicant elects Antigua and Barbuda for the purposes of international preliminary examination under Chapter II of the Patent Cooperation Treaty.

National Processing

22. The Intellectual Property Registry as designated Office or elected Office shall not commence processing of an international application designating Antigua and Barbuda before the expiration of the time limit referred to in Section 23 except if the applicant

complies with the requirements of that Section and files with the Intellectual Property Registry an express request for early commencement of such processing.

Entering
National Phase

23. The applicant in respect of an international application designating Antigua and Barbuda shall, before the expiration of the time limit applicable under Article 22 or 39 of the Patent Cooperation Treaty or of such later time limit as may be prescribed in the Regulations:

- (a) pay the prescribed fee to the Intellectual Property Registry; and
- (b) if the international application was not filed in, or has not been published under the Patent Cooperation Treaty as a translation into English, file with the Intellectual Property Registry a translation of the international application, containing the prescribed contents, into English.

Failure to Enter
National Phase

24. If the applicant does not comply with the requirements of section 23 within the time limit referred to in that section, the international application shall be considered withdrawn for the purposes of this Act.

Processing
International
Applications
in Accordance
with the PCT

25.(1) The Intellectual Property Registry shall process international applications in accordance with the provisions of the Patent Cooperation Treaty, the Regulations established thereunder and the Administrative Instructions under those Regulations and with the provisions of this Act and the Regulations.

(2) In the event of conflict, the provisions of the Patent Cooperation Treaty, the Regulations thereunder and the Administrative Instructions under those Regulations shall apply; and the Regulations under this Act may provide for the processing of international applications in such a case.

(3) Further details concerning the processing of international applications by, and other functions of, the Intellectual Property Registry in connection with the Patent Cooperation Treaty, including fees payable, time limits and other requirements in relation to international applications, may be included in the Regulations.

PART III: UTILITY MODEL CERTIFICATES

Applicability of Provisions Relating to Patents

26.—(1) Subject to section 27, the provisions of this Act shall apply, *mutatis mutandis*, to utility model certificates or applications therefor as the case may be.

(2) Where the right to a patent conflicts with the right to a utility model certificate in the case referred to in section 4(3), the said provision shall apply as if the word “patent” were replaced by the words “patent or utility model certificate.”

Special Provisions Relating to Utility Model Certificates

27.—(1) An invention qualifies for a utility model certificate if it is new and is industrially applicable.

(2) Section 3 (1) and (5) shall not apply in the case of inventions for which utility model certificates are requested.

(3) A utility model certificate shall expire, without any possibility of renewal, at the end of the seventh year after the date of the filing of the application.

(4) Section 12 shall not apply in the case of utility model certificates.

(5) In proceedings under section 15, the court shall invalidate the utility model certificate on the following grounds,

(a) that the claimed invention did not qualify for a utility model certificate, having regard to subsection (1) and (2) and to section 3 (2), (3), (4), (6);

(b) that the description and the claims do not comply with the requirements prescribed by section 5(5), (6) and (7) and the regulations pertaining thereto;

(c) that any drawing which is necessary for the understanding of the invention has not been furnished;

(d) that the owner of the utility model certificate is not the inventor or his successor in title.

(7) Section 15(2) shall not apply in the case of utility model certificates.

Conversion of Patent Applications or Applications for Utility Model Certificates

28.—(1) At any time before the grant or a patent, an applicant for a patent may, upon - payment of the prescribed fee, convert his application into an application for a utility model certificate, which shall be accorded the filing date of the initial application.

(2) At any time before the grant or rejection of a utility model certificate, an applicant for a utility model certificate may, upon payment of the prescribed fee, convert his application into a patent application, which shall be accorded the filing date of the initial application.

(3) An application may not be converted under subsection (1) more than once.

PART IV: GENERAL PROVISIONS

Changes in Ownership; License Contracts

29. (1) Any change in the ownership of a patent or in the ownership of an application therefor, shall be in writing and shall, at the request of any interested party, to the Registrar, be recorded and, except in the case of an application, published by the Registrar; but such change shall have no effect against third parties until such recording is effected.

(2)). Any license contract concerning a patent or an application therefor, shall be submitted to the Registrar who shall keep its contents confidential but shall record it and publish a reference thereto. The license contract shall have no effect against third parties until such recording is effected.

Agents

30. Where an applicant's ordinary residence or principal place of business is outside Antigua and Barbuda, he shall be represented by an attorney at law resident and practicing in Antigua and Barbuda

Registers;

Official Bulletin

31 (1) The Registrar shall maintain a register for patents to be called the Register of Patents and utility model certificates. All the recordings provided for in this Act shall be effected in the Register.

(2) The Register may be consulted by any person, and any person may obtain extracts therefrom, under the conditions prescribed in the Regulations.

(3) The Registrar shall publish in the *Gazette* all the publications provided for in this Act.

Correction of Errors;
Extension of Time

32.(1) The Registrar may, subject to any provision in the Regulations, correct any error of translation or transcription, clerical error or mistake in any application or document filed with the Registrar or in any recording effected pursuant to this Act or the Regulations.

(2) If the Registrar is satisfied that the circumstances justify it, he may, upon receiving a written request, extend the time for doing any act or taking any proceeding under this Act and the Regulations, upon notice to the parties concerned and upon such terms as he may direct; and such extension may be granted though the time for doing the act or taking the proceeding has expired.

Competence of Court
and Appeals

33.(1) The High Court shall have jurisdiction in cases of dispute relating to the application of this Act and the Regulations and in matters which under this Act are to be referred to the court.

(2) Any decision taken by the Registrar under this Act, in particular the grant of a patent, or the refusal of an application for such a grant, may be the subject of an appeal by any interested party before the Court and such appeal shall be filed within two months of the date of the decision.

Infringement; Unlawful Acts;
infringement Offences

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

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

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

Application of International
Treaties

35. The provisions of any international treaties in respect of industrial property to which Antigua and Barbuda is a party shall apply to matters dealt with by this Act and, in case of conflict with provisions of this Act, shall prevail over the latter.

Regulations.

36 The Minister may make regulations prescribing details for the implementation of this Act and the regulations may, in particular provide for the payment of fees in connection with applications for the grant of a patent and matters related thereto.

Repeals and Transitional
Provisions

37 (1) The Patents Act is repealed.

(2) Notwithstanding the repeal of the Patents Act, patents granted thereunder shall remain in force but shall, subject to subsections (3), be deemed to have been granted under this Act.

(3) Patents thus granted shall remain in force for the unexpired portion of the period of protection provided under this Act, subject to the payment of annual maintenance fees provided for in this Act.

(4) The Minister may by Order published in the *Gazette* make any further transitional or saving provisions which appear to him to be necessary or desirable.

Passed the House of Representatives this
Day of 2001

Speaker

Passed the Senate this
day of 2001

President

Clerk to the House of Representatives

Clerk to the Senate
