

La Gaceta (Gazette No.) 229 – November 26, 2008

LAWS

Law No. 8686

THE LEGISLATIVE ASSEMBLY OF THE REPUBLIC OF COSTA RICA
HEREBY DECREES:

**THE AMENDMENT, ADDITION OR REPEAL OF VARIOUS RULES GOVERNING
MATTERS PERTAINING TO INTELLECTUAL PROPERTY**

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ARTICLE 1.– Articles 1, 2, 4, 6, 9, 14, 21, 22, 54, the first paragraph of Article 55, Articles 57, 58, 68, 70, 71, 73, 76, 77, 78, 79, 81, subparagraphs (a) and (g) of Article 82 and Articles 83, 87, 93, 103, 106, 107, 108, 114, 115, 154 and 155 of Law No. 6683 of October 14, 1982 on Copyright and Related Rights and the amendments thereto are hereby amended to read as follows:

“Article 1.– Original intellectual productions shall confer on their authors the rights to which this Law refers. The protection of copyright shall cover expressions but not ideas, procedures, operating methods or mathematical concepts per se. The authors of literary and artistic works shall be the owners of the economic and moral rights therein.

“Literary and artistic works”, hereinafter “works”, shall be taken to mean all productions in the literary, scientific and artistic domains, regardless of their form of expression, such as books, pamphlets, letters and other writings; also computer programs, including successive versions thereof and derived programs; lectures, addresses, sermons and other works of similar nature; and dramatico-musical works; choreographic and mimed works; musical compositions with or without words and cinematographic works, to which works expressed by a process analogous to cinematography are assimilated; works of drawing, painting, architecture, sculpture, engraving and lithography; photographic works and works expressed by a process analogous to photography; works of applied art such as illustrations, maps, plans, sketches and three-dimensional works relating to geography, topography, architecture or science; collections of works such as encyclopedias and anthologies which, as a result of the selection or arrangement of the material, constitute intellectual creations; compilations of data or other materials, in machine-readable or other form, which as a result of their selection or arrangement of their contents constitute creations of an intellectual nature; and derived works, such as musical adaptations, translations, arrangements and other transformations of original works that have been authorized by the authors of the said works where they are not in the public domain.

The protection of compilations of data or other materials shall not extend to the information or the material itself, and shall be understood without prejudice to any copyright subsisting in respect of the data or material contained in the compilation.

Article 2.– This Law shall protect the works, performances or phonograms of Costa Rican authors, performers or producers, whether or not they reside on the national territory.

The works of foreign authors, performers, producers of phonograms or other right holders, whether or not they are resident in the country, shall enjoy protection no less favorable than that afforded to Costa Ricans, including any benefit derived from such protection. The rights granted to performers and producers of phonograms who are nationals of Costa Rica shall be afforded to foreign performers and producers of phonograms, and to the phonograms or performances realized, which are fixed or published for the first time in Costa Rica; for this purpose, the provisions of paragraphs 1 and 2 of Article 5 of the International Convention on the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention) shall apply.”

“Article 4.– For the purposes of this Law:

- (a) “individual work” means a work produced by a single author;
- (b) “work of joint authorship” means a work produced by two or more authors working together, in which the contribution of each such author cannot be dissociated from the other contributions, so that the work constitutes an indivisible whole. The authors of a work of joint authorship shall be joint owners of the copyright flowing from the work. The terms “collaborative work” and “work of joint authorship” shall be synonymous;
- (c) “anonymous work” means a work in relation to which the author’s name is not mentioned in accordance with his wishes;
- (d) “pseudonymous work” means a work in which the author is presented under a pseudonym that does not identify him;
- (e) “unpublished work” means a work that has not been published;
- (f) “posthumous work” means a work that has not been published during the author’s lifetime;
- (g) “original work” means the creation as originally conceived;
- (h) “derived work” means a work resulting from the adaptation of an original work insofar as it is a separate creation possessing originality;
- (i) “collective work” means a work produced by a large number of contributors in such a way that it is impossible to attribute a particular contribution to any one of them. The copyright in a collective work shall belong initially to the natural person or legal entity who or which takes the initiative to produce and publish it under his/its name;
- (j) “publisher” means the natural person or legal entity that acquires the exclusive right to reproduce the work;
- (k) “fraudulent reproduction” means a reproduction that has not been authorized;
- (l) “cinematographic producer” means the undertaking or person which or who takes the initiative in, coordinates and assumes responsibility for the making of a cinematographic work;
- (m) “reproduction” means the copying of a literary or artistic work or visual or sound fixation, either partially or completely, in any tangible form, including any permanent or temporary storage by electronic means, even where this is through the two-dimensional production of a three-dimensional work or vice versa;
- (n) “publication” means the making available to the public of copies of a work or visual or sound fixation in sufficient quantities as to reasonably satisfy its needs, estimated on the basis of the nature of the work, and with the consent of the right holder;
- (o) “registry” means the National Registry of Copyright and Related Rights;
- (p) “computer program” means a set of instructions expressed as words, codes, diagrams, designs or any other form which, on being inserted in an automated reading device, are capable of making a computer – that is, an electronic or similar device capable of processing data – perform a given task or produce a given result: the technical documentation and user manuals shall also form part of the program;
- (q) “distribution” means the making available of the original or copies of the work or phonogram to the public by sale, rental, importation, lending or in any other similar form;
- (r) “broadcasting” means the transmission by wireless means or satellite for public reception of sounds or images and sounds or the representation thereof, including the wireless transmission of codified signals where the descrambling means are made available to the public by the broadcasting body or with its consent;
- (s) “cinematographic work” means an audiovisual work, as incorporated in a videogram, which consists of series of images which, where they are shown successively, give an impression of movement, accompanied by sounds, as the case may be.”

“Article 6.– The holder of the copyright in collective works such as dictionaries, encyclopedias or anthologies shall be the natural person or legal entity that compiles them.”

“Article 9.– The copyright in compilations of works shall belong to the compiler.”

“Article 14.– Moral rights shall include the right:

- (a) unless agreed otherwise, to keep the work unpublished, with the possibility of postponing its publication and reproduction by testamentary provision for a period of up to fifty (50) years following the author’s death;
- (b) to claim authorship of the work;
- (c) to prevent any distortion, mutilation or alteration of the work, or any attack on the author which causes prejudice to his honor or reputation;
- (d) unless agreed otherwise, to withdraw the work from circulation, subject to prior indemnification of those prejudiced by such action.

Moral rights shall be independent of the author’s economic rights. The rights mentioned in subparagraphs (a) and (d) above may only be exercised once appropriate compensation has been paid to third parties who may be affected by the said actions, unless agreed otherwise.”

“Article 21.– Under a publishing contract a person called the publisher shall be granted, by the author of a work or his successors in title, the right, on specified conditions, either for payment or free of charge, to reproduce, disseminate and sell the work. The publisher shall publish the work at his own expense and risk.

Article 22.– The publishing contract may be concluded for a stated or unstated number of editions or for a maximum period of five (5) years. If an edition is out of print, the work shall not be republished within a period of eighteen (18) months, and the author may seek to rescind the contract.”

“Article 54.– Unless agreed otherwise, the producer of the film, when showing it in public, shall mention his own name and those of the author of the script, the author of the original work, the composer if appropriate, the director and the main performers.

Article 55.– Unless agreed otherwise, the cinematographic producer shall be entrusted with the full and exclusive exercise of the economic rights in the cinematographic work, and shall be entitled to perform all such acts as are conducive to its wide circulation and exploitation, expressed in the contracts with the co-authors.

[...]

Article 57.– Unless agreed otherwise, any contributor who for any reason does not complete his contribution may not object to the producer engaging a third party to complete the work. The replaced contributor shall retain his rights in the part contributed by him.

Article 58.– Copyright shall last throughout the lifetime of an author. After his death, it shall be enjoyed for a period of seventy (70) years by those who have lawfully acquired it. Where the duration of the protection of a work is calculated on a basis separate from the lifetime of a natural person, this duration shall be:

- (a) seventy (70) years, beginning from the end of the calendar year of first authorized publication of the work;
- (b) failing such authorized publication within a period of seventy (70) years, beginning from the end of the calendar year in which the work is created, the duration of protection shall be seventy (70) years, beginning from the end of the calendar year in which the work is in any way first made available to the public with the author’s consent;
- (c) failing such authorized publication and the making available to the public in any other way with the author’s consent, within a period of seventy (70) years, beginning from the work’s creation, the duration of protection shall be seventy (70) years from the end of the calendar year of creation.”

“Article 68.– It shall be lawful to make reproductions via the press or the broadcasting or transmission by wire to the public of articles on current affairs on economic, political or religious issues, published in periodicals or collections of periodicals, or broadcast works of the same nature,

in cases where the reproduction, broadcasting or said transmission has not been expressly reserved. However, the source shall be clearly mentioned in all cases.”

“Article 70.– It shall be permissible to quote an author by transcribing the relevant passages of a work that has been made lawfully available to the public, provided that the passages are not consecutive and such that they might be considered a simulated, substantive reproduction that prejudices the author of the original work. The extension of such passage may not exceed the extent justified by the purpose sought.

Article 71.– It shall be lawful to make reproductions by photographic or other pictorial processes for non-commercial purposes of statues, monuments and other works of art that are protected by copyright, have been acquired by the authorities and are displayed in streets, parks and museums.”

“Article 73.– Theatrical or musical performances that have been lawfully made available to the public shall be free when they take place in the home for the sole benefit of the family circle. They shall also be free when they take place by way of illustration solely for educational purposes, to the extent justified by the educational purpose, provided that said performances do not conflict with the normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder. In addition, the source and author’s name shall be mentioned, if this name is given in the source.

It shall also be lawful to utilize or reproduce, to the extent justified by the purpose sought, works by way of illustration for teaching via publications such as anthologies, radio broadcasts or sound or audio recordings, provided that such utilization is in accordance with fair use and mentions the source and author’s name, if this name is given in the source.”

“Article 76.– In the reporting of information on current events by means of photography or cinematography, or by broadcasting or wire transmission to the public, works that have been seen or heard in the course of the events may be reproduced and made available to the public, to the extent justified by the information purposes.

Article 77.– For the purposes of this Law:

- (a) “performer” means any actor, speaker, narrator, reciter, singer, dancer or musician, or any other person who plays a role, sings, narrates, recites or performs in any way a literary or artistic work or expressions of folklore;
- (b) “fixation” means the embodiment of sounds, images and sounds, or the representation thereof, enabling them to be seen, reproduced or communicated using a device.

Article 78.– Without prejudice to the rights conferred on copyright holders, performers or their agents, heirs, successors or assignees shall, for payment or free of charge, have the right to authorize or prohibit the following:

- (a) the fixation of their unfixed performances;
- (b) the broadcasting and communication to the public of their unfixed performances, except where the performance itself constitutes a broadcast performance;
- (c) the direct or indirect reproduction of their performances fixed in phonograms;
- (d) the making available to the public of the original and copies of their performances fixed in phonograms, by means of sale or other transfer of ownership;
- (e) the making available to the public of their performances fixed in phonograms, in such a way that members of the public may access them from a place and at a time of their individual choosing;
- (f) the commercial rental to the public of the original and copies of their performances fixed in phonograms, even after distribution of them by, or pursuant to authorization by, the performer.

Article 79.– Independently of a performer’s economic rights, and even after the transfer of those rights, the performer shall, as regards his live aural performances or performances fixed in phonograms, have the right to claim to be identified as the performer of his performances, except where omission is dictated by the manner of the use of the performance, and to object to any distortion, mutilation or other modification of his performances that would be prejudicial to his reputation.”

Article 81.– For the purposes of this Law,

- (a) “producer of phonograms” means the natural person or legal entity, who or which takes the initiative and has the economic responsibility for the first fixation of the sounds of a performance or other sounds, or the representations of sounds;
- (b) “phonogram” means any fixation of the sounds of a performance or of other sounds, or of a representation of sounds, other than in the form of a fixation incorporated in a cinematographic or audiovisual work.

Article 82.– Without prejudice to the rights conferred on copyright holders, producers of phonograms shall have the exclusive right to authorize or prohibit:

- (a) the direct or indirect reproduction of their phonograms;
[...]
- (g) the making available to the public of their phonograms, be it by wire or wireless means, including cable, optical fiber, electromagnetic waves, satellite or any other similar means providing members of the public with access to or remote communication of works, from a place and at a time of their individual choosing.

Article 83.– Where a phonogram published for commercial purposes, or a reproduction of such phonogram, is used directly for broadcasting or for any form of non-interactive communication in places frequented by the public, the user shall obtain prior authorization from the producer and shall pay a single equitable remuneration to the said producer.

The producer or his representative shall collect the amount due for the users referred to in the preceding paragraph and shall divide it up with the performers, in the proportions contractually agreed with them.”

Article 87.– Related rights shall last throughout the lifetime of the performer or producer. After the death of the performer or producer, those who have legitimately acquired those rights shall enjoy them for a period of seventy (70) years.

Where the duration of protection for a related right is calculated on a different basis from that of the life of a natural person, such protection shall last:

- (a) seventy (70) years, beginning from the end of the calendar year of the first authorized publication or disclosure of the performance or phonogram;
- (b) failing such authorized publication within a period of fifty (50) years, beginning from the end of the calendar year of the creation of the performance or phonogram, the duration of protection shall be seventy (70) years, beginning from the end of the calendar year of the creation of the performance or phonogram;
- (c) in the case of broadcasting bodies, protection shall last for seventy (70) years, beginning from the end of the calendar year in which the broadcasting took place.”

Article 93.– Unless otherwise agreed, any contract for the sale of the future production of an author or performer may not exceed five (5) years, and shall lapse on expiry of that period.

“Article 103.– To register a production, the interested party shall submit a written request to the Registrar with the following particulars:

- (a) the surname, given names and address of the applicant, and a statement of whether he is acting in his own name or on behalf of another person, in which case certification thereof shall be provided and the surname, given names and address of the party represented shall be indicated;
- (b) the surnames, given names and addresses of the author, publisher and printer, and their capacities;
- (c) the title of the work, its genre, the place and date of publication and any other characteristics enabling it to be identified clearly;
- (d) in the case of phonograms, the name of the performer and the catalog number shall also be indicated;
- (e) the place, date and time at which the production was deposited, in accordance with the Regulations;
- (f) where a computer program or database is to be registered, the application shall contain a description of the program or database, together with the supporting material.

For purposes of deposit, the production may be deposited by the applicant with a third party, who shall act as a notary and depositary, in accordance with the Regulations.”

“Article 106.– Any natural person or legal entity, public or private, responsible for reproducing a work by printed, magnetic, electronic, electromagnetic or any other means, shall deposit a copy of the reproduction at each of the following institutions within eight (8) days following publication: the Library of the State Distance Learning University, the Library of the University of Costa Rica, the Library of the National University, the Library of the Legislative Assembly, the National Library, the Library of the Directorate General of the National Archives and the Library of the Technology Institute of Costa Rica.

Failure to deposit with any one of the said institutions shall be punished by a fine equivalent to the total value of the reproduction.

Article 107.– In the case of an unpublished work, it shall be sufficient to indicate the place, date and time at which a typewritten copy without alterations, deletions or interlineations was deposited, with the signature of the author authenticated by an attorney. If the unpublished work is a theatrical or musical work, it shall be sufficient to submit a handwritten copy with the signature of the author authenticated by an attorney, in accordance with the Regulations.

Article 108.– In the case of a unique artistic work such as a canvas or bust, portrait, painting, drawing or other three-dimensional work, deposit shall be made by the submission of a description of its characteristics, together with photographs showing front and side views, as appropriate. To register blueprints, sketches, maps, photographs or phonograms, it shall be necessary to deposit a copy with a depositary, in accordance with the Regulations.”

“Article 114.– Where the Registrar refuses registration, the applicant shall have the right to file an administrative appeal for review with that same body, and if this appeal is denied, the applicant may lodge an appeal against judgment with the Administrative Registration Tribunal.

Article 115.– If the Administrative Registration Tribunal upholds the decision to refuse registration, the applicant may refer the matter to the ordinary courts.”

“Article 154.– The various forms of use shall be independent of each other, so that authorization to record the work or production shall not constitute authorization to perform or transmit it, or vice versa.

Likewise, the authorization of the author of a work contained in a phonogram shall not imply the authorization of the producer of the phonogram. In a similar vein, the authorization of the performer or producer of the phonogram shall not imply the authorization of the author of the work contained in the phonogram.

Article 155.– In the absence of evidence to the contrary, the individual whose name or known pseudonym is specified on a protected work in the customary manner shall be considered the author of the protected work, performance or phonogram. It shall be assumed, in the absence of evidence to the contrary, that the copyright or related right subsists in one of the forms or expressions listed above.”

ARTICLE 2.– Articles 21bis, 41bis and 73bis are hereby added to Law No. 6683, of October 14, 1982, on Copyright and Related Rights, to read as follows:

“Article 21bis.– The provisions of this Law relating to publishing contracts shall also apply to what has been explicitly stated by contract. In the event that a provision of the publishing contract agreed by the parties is incompatible with a provision of this Law, the contractual provision shall take precedence.”

“Article 41bis.– The provisions of this Law relating to stage performing contracts shall also apply to what has been explicitly stated by contract. In the event that a provision of the stage performing contract agreed by the parties is incompatible with a provision of this Law, the contractual provision shall take precedence.”

“Article 73bis.–

1. The following exceptions to the protection established in this Law shall be permitted for the exclusive rights of performers, producers of phonograms and broadcasting bodies, provided that this does not conflict with a normal exploitation of the performance or unreasonably prejudice the legitimate interests of the right holder:

- (a) in the case of utilization for private use;
- (b) where brief fragments have been used to provide information on current affairs;
- (c) where an ephemeral fixation is produced by a broadcasting body by its own means and for its own broadcasts;
- (d) in the case of use exclusively for teaching or scientific research purposes.

2. Without prejudice to the provisions in paragraph 1 of this Article and Article 83 of this Law, it shall not be permitted to retransmit television signals (via land, cable or satellite) over the Internet without the authorization of the holder(s) of the right in the content of the signal and the signal.”

ARTICLE 3.– Articles 3 and 61 of Law No. 6683 of October 14, 1982, on Copyright and Related Rights are hereby repealed.

ARTICLE 4.– Article 11(a) and Article 71 of Law No. 8039 of October 12, 2000 on Procedures for Enforcement of Intellectual Property Rights are hereby amended to read as follows:

“Article 11.– Requests for border measures

[...]

The following, at least, shall be required of any holder of a protected intellectual property right, or representative thereof, requesting the suspension of customs clearance for goods:

(a) to prove himself an intellectual property right holder or right holder's representative; in the case of copyright and related rights, the rules set out in Article 155 of Law No. 6683 of October 14, 1982 on Copyright and Related Rights shall apply.
[...]"

“Article 71.– Seizure and destruction of goods ordered pursuant to a criminal judgment

At a party's request or *ex officio*, the judicial authorities may order the following, either as an interlocutory injunction or in the sentencing decision:

- (a) the seizure of the allegedly infringing pirated or counterfeit goods, any related materials or tools used to commit the infringement, any assets related to the infringing activity, and any documentary evidence relating to the infringement. It shall not be necessary to identify individually the materials subject to seizure under the court order, provided that they come under the general categories specified in the court order;
- (b) the forfeiture of any assets related to the infringing activity;
- (c) the forfeiture of any pirated or counterfeit goods, without any compensation for the respondent, in order to avoid their entry into commercial channels;
- (d) in respect of the copyright or related rights piracy, the seizure of the materials and tools used to create the infringing goods.

Similarly, the judicial authorities may order in the sentencing decision the destruction of the illegal or pirated counterfeit goods, as well as the destruction of the materials and tools used in the commission of the infringement.”

ARTICLE 5.– A third paragraph is hereby added to Article 39 of Law No. 8,039, of October 12, 2000 on Procedures for Enforcement of Intellectual Property Rights, to read as follows:

“Article 39.– Evidence under the control of the opposing party

[...]

In addition, the judge may order the alleged infringer to provide any information in his possession in respect of any person involved in any aspect of the infringement and in respect of the means of production or channels of distribution for the infringing goods or services, including the identification of third parties involved in their production and distribution, and their channels of distribution. This information shall be made available to the right holder, in accordance with the applicable constitutional principles. Notwithstanding, any information that the judge considers to be private or sensitive and that is not relevant to shed light on the matters that form the subject of the claim may not be disclosed.”

ARTICLE 6.– Article 8 of Law No. 7975 of January 4, 2000 on Undisclosed Information is hereby amended to read as follows:

“Article 8.– Protection of data provided with a view to marketing approval for pharmaceutical or agrochemical products

If, as a condition for securing approval to market new pharmaceutical or agrochemical products, applicants for a marketing license are required to submit undisclosed test data, including data on safety and effectiveness, or other undisclosed information, the preparation of which has entailed considerable efforts, the data in question shall be protected against any unfair commercial use and any disclosure, except where the use of such data is necessary to protect the public. If the said undisclosed information is disclosed, measures shall be taken to guarantee protection against any unfair commercial use.

The utilization of test data to protect the public shall include use by the competent authorities, in the case of studies provided for in the regulations on the registration of drugs or agrochemicals to prevent practices which may mislead consumers or to protect lives, health or human safety, or animal or plant life or the environment, provided that said information is not disclosed.

For the purposes of this Article, a “new product” means one which does not contain a chemical entity that has previously been approved in Costa Rica.

“Chemical entity” means the functional group of the active principle which is responsible for the biocidal, physiological or pharmacological action. All polymorphs, isomers and other derivatives with parts joined to the chemical whole of which it is composed such as ester, ether, salt, including salt with hydrogen or coordinated unions, complex or otherwise, shall be defined as a single chemical entity.”

ARTICLE 7.– The first paragraph of Article 2, Article 3 and Article 8(b) of Law No. 8631 of March 6, 2008 on the Protection of Plant Varieties are hereby amended to read as follows:

“Article 2.– Scope of application

The scope of application of this Law shall extend to varieties of all plant genera and species.

[...]

Article 3.– National interest

The breeding of plant varieties by natural persons or legal entities, public or private, for the benefits this may bring for national development and agriculture/livestock, is hereby declared to be in the national interest.”

“Article 8. – Technical examination

[...]

- (b) by means of examinations carried out by other competent official entities or by specialized bodies, within the framework of international cooperation. Such bodies shall act independently and shall safeguard the legitimate interests of the breeder. Ofinase shall take the necessary steps to this end.

[...]

ARTICLE 8.– Paragraphs 1, 2 and 4 of Article 17 of Law No. 6867 of April 25, 1983, and the amendments thereto on Invention Patents, Industrial Designs and Utility Models, are hereby amended to read as follows:

“Article 17.– Duration of patent protection

1. The patent shall be valid for twenty (20) years, beginning from the date on which the application is filed with the Industrial Property Registry or, in the case of patents processed under the Patent Cooperation Treaty, from the date of international filing.

2. Notwithstanding the provisions of paragraph 1 above, if the Industrial Property Registry takes more than five (5) years to grant the patent, beginning from the date on which the application is filed with it, or takes more than three (3) years, beginning from the application for the substantive examination of the patent provided for in Article 13 of this Law, whichever comes last, the holder shall be entitled to petition the Industrial Property Registry for compensation for the period of patent validity. Said petition shall be filed in writing within three (3) months following the grant of the patent.

[...]

4. Notwithstanding the provisions laid down in paragraph 1 above, in the case of existing patents that cover any pharmaceutical product, where Health Registry approval for the first marketing of said pharmaceutical product in the country, granted by the Ministry of Health, takes more than three (3) months, beginning from the date of filing of the application with the Health Registry for pharmaceutical products in the country, the patent owner shall be entitled to petition the Industrial Property Registry for compensation for the term of the patent. Said petition shall be filed in writing, within three (3) months following Health Registry approval for the first marketing of the pharmaceutical product in the country.

[...]

ARTICLE 9.– The fourth paragraph of Article 20 of Law No. 6867 of April 25, 1983 on Invention Patents, Industrial Designs and Utility Models and the amendments thereto is hereby repealed.

ARTICLE 10.– Article 78 of Law No. 7788 of April 30, 1998 on Biodiversity is hereby amended to read as follows:

“Article 78.– Forms of and limits to protection

The State shall grant the protection indicated in the previous Article, among other ways, by means of patents, trade secrets, plant breeder’s rights, *sui generis* community intellectual rights, copyright and farmers’ rights.

These rights shall not apply to:

- (a) sequences of deoxyribonucleic acid, nucleotides and amino acids which do not fulfill the requirements for patentability, as established in Law No. 6867 of April 25, 1983 and the amendments thereto;
- (b) plants and animals;
- (c) micro-organisms as they are found in nature;
- (d) essentially biological procedures for the production of plants and animals, which are not non-biological or microbiological procedures;
- (e) natural processes or cycles as such;
- (f) inventions essentially derived from knowledge which is associated with traditional or cultural biological practices in the public domain;
- (g) inventions whose commercial exploitation must necessarily be prevented to protect public order or morality, or to protect the health or lives of persons or animals or to preserve plants, or to avoid serious damage to the environment.”

ARTICLE 11.– Article 81 of Law No. 7788 of April 30, 1998, on Biodiversity is hereby amended to read as follows:

“Article 81.– Licenses

In cases of declared national emergency, the State may issue a compulsory license for a patent which involves elements of national biodiversity, for the collective good, with a view to resolving the emergency, in accordance with the provisions of Law No. 6867 of April 25, 1983.

As part of the fair and equitable sharing of benefits arising out of access to elements and resources of national biodiversity for the collective good, every permit, agreement or concession for access to or use of the said elements and biodiversity resources shall stipulate that the said licenses are not subject to any remuneration or royalties for the right holder.”

In force from the time of its publication.

LEGISLATIVE ASSEMBLY.– Adopted on the eleventh day of the month of November of the year two thousand and eight.

TO BE COMMUNICATED TO THE EXECUTIVE

Maureen Ballesteros Vargas
SITTING VICE-CHAIRPERSON OF THE PRESIDENCY

Hilda González Ramírez
FIRST SECRETARY

Guyon Massey Mora
SECOND SECRETARY

Done at the Office of President of the Republic.– San José, on the twenty-first day of the month of November of the year two thousand and eight.

To be enacted and published

ÓSCAR ARIAS SÁNCHEZ.– The Minister of Justice, Viviana Martín Salazar and the Minister of Foreign Trade, Marco Vinicio Ruiz Gutiérrez.– Once.– (Application No. 12551).– C-403280.– (L8686-111092).