6 Regulations under the Patent Cooperation Treaty

*(as in force from January 1, 2002)n**

FOOTNOTES:
[n1] Footnote *. Adopted on June 19, 1970, and amended on April 14, 1978, October 3, 1978, May 1, 1979, June 16, 1980, September 26, 1980, July 3, 1981, September 10, 1982, October 4, 1983, February 3, 1984, September 28, 1984, October 1, 1985, July 12, 1991, October 2, 1991, September 29, 1992, September 29, 1993, October 3, 1995, October 1, 1997, September 15, 1998, September 29, 1999, March 17, 2000, October 3, 2000, and October 3, 2001.

PART A --INTRODUCTORY RULES

Rule 1 Abbreviated Expressions

1.1 Meaning of Abbreviated Expressions

(a) In these Regulations, the word "Treaty" means the Patent Cooperation Treaty.

(b) In these Regulations, the words "Chapter" and "Article" refer to the specified Chapter or Article of the Treaty.

Rule 2 Interpretation of Certain Words

2.1 "Applicant"

Whenever the word "applicant" is used, it shall be construed as meaning also the agent or other representative of the applicant, except where the contrary clearly follows from the wording or the nature of the provision, or the context in which the word is used, such as, in particular, where the provision refers to the residence or nationality of the applicant.

2.2 "Agent"

Whenever the word "agent" is used, it shall be construed as meaning an agent appointed under Rule 90.1, unless the contrary clearly follows from the wording or the nature of the provision, or the context in which the word is used.

2.2bis "Common Representative"

Whenever the expression "common representative" is used, it shall be construed as meaning an applicant appointed as, or considered to be, the common representative under Rule 90.2.

2.3 "Signature"

Whenever the word "signature" is used, it shall be understood that, if the national law applied by the receiving Office or the competent International Searching or Preliminary Examining Authority requires the use of a seal instead of a signature, the word, for the purposes of that Office or Authority, shall mean seal.

PART B --RULES CONCERNING CHAPTER I OF THE TREATY

Rule 3 The Request (Form)

3.1 Form of Request

The request shall be made on a printed form or be presented as a computer print-out.

3.2 Availability of Forms

Copies of the printed form shall be furnished free of charge to the applicants by the receiving Office, or, if the receiving Office so desires, by the International Bureau.

3.3 Check List

(a) The request shall contain a list indicating:

(i) the total number of sheets constituting the international application and the number of the sheets of each element of the international application: request, description (separately indicating the number of sheets of any sequence listing part of the description), claims, drawings, abstract;

(ii) where applicable, that the international application as filed is accompanied by a power of attorney (i.e., a document appointing an agent or a common representative), a copy of a general power of attorney, a priority document, a sequence listing in computer readable form, a document relating to the payment of fees, or any other document (to be specified in the check list);

(iii) the number of that figure of the drawings which the applicant suggests should accompany the abstract when the abstract is published; in exceptional cases, the applicant may suggest more than one figure.

(b) The list shall be completed by the applicant, failing which the receiving Office shall make the necessary indications, except that the number referred to in paragraph (a)(iii) shall not be indicated by the receiving Office.

3.4 Particulars

Subject to Rule 3.3, particulars of the printed request form and of a request presented as a computer print-out shall be prescribed by the Administrative Instructions.

Rule 4 The Request (Contents)

4.1 Mandatory and Optional Contents; Signature

(a) The request shall contain:

(i) a petition,

(ii) the title of the invention,

(iii) indications concerning the applicant and the agent, if there is an agent,

(iv) the designation of States,

(v) indications concerning the inventor where the national law of at least one of the designated States requires that the name of the inventor be furnished at the time of filing a national application.

(b) The request shall, where applicable, contain:

(i) a priority claim,

(ii) a reference to any earlier international, international-type or other search,

(iii) choices of certain kinds of protection,

(iv) an indication that the applicant wishes to obtain a regional patent,

(v) a reference to a parent application or parent patent,

(vi) an indication of the applicant's choice of competent International Searching Authority.

(c) The request may contain:

(i) indications concerning the inventor where the national law of none of the designated States requires that the name of the inventor be furnished at the time of filing a national application,

(ii) a request to the receiving Office to prepare and transmit the priority document to the International Bureau where the application whose priority is claimed was filed with the national Office or intergovernmental authority which is the receiving Office,

(iii) declarations as provided in Rule 4.17.

(d) The request shall be signed.

4.2 The Petition

The petition shall be to the following effect and shall preferably be worded as follows: "The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty."

4.3 Title of the Invention

The title of the invention shall be short (preferably from two to seven words when in English or translated into English) and precise.

4.4 Names and Addresses

(a) Names of natural persons shall be indicated by the person's family name and given name(s), the family name being indicated before the given name(s).

(b) Names of legal entities shall be indicated by their full, official designations.

(c) Addresses shall be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address and, in any case, shall consist of all the relevant administrative units up to, and including, the house number, if any. Where the national law of the designated State does not require the indication of the house number, failure to indicate such number shall have no effect in that State. In order to allow rapid communication with the applicant, it is recommended to indicate any teleprinter address, telephone and facsimile machine numbers, or corresponding data for other like means of communication, of the applicant or, where applicable, the agent or the common representative.

(d) For each applicant, inventor, or agent, only one address may be indicated, except that, if no agent has been appointed to represent the applicant, or all of them if more than one, the applicant or, if there is more than one applicant, the common representative, may indicate, in addition to any other address given in the request, an address to which notifications shall be sent.

4.5 The Applicant

(a) The request shall indicate the name, address, nationality and residence of the applicant or, if there are several applicants, of each of them.

(b) The applicant's nationality shall be indicated by the name of the State of which he is a national.

(c) The applicant's residence shall be indicated by the name of the State of which he is a resident.

(d) The request may, for different designated States, indicate different applicants. In such a case, the request shall indicate the applicant or applicants for each designated State or group of designated States.

(e) Where the applicant is registered with the national Office that is acting as receiving Office, the request may indicate the number or other indication under which the applicant is so registered.

4.6 The Inventor

(a) Where Rule 4.1(a)(v) or (c)(i) applies, the request shall indicate the name and address of the inventor or, if there are several inventors, of each of them.

(b) If the applicant is the inventor, the request, in lieu of the indication under paragraph (a), shall contain a statement to that effect.

(c) The request may, for different designated States, indicate different persons as inventors where, in this respect, the requirements of the national laws of the designated States are not the same. In such a case, the request shall contain a separate statement for each designated State or group of States in which a particular person, or the same person, is to be considered the inventor, or in which particular persons, or the same persons, are to be considered the inventors.

4.7 The Agent

(a) If an agent is appointed, the request shall so indicate, and shall state the agent's name and address.

(b) Where the agent is registered with the national Office that is acting as receiving Office, the request may indicate the number or other indication under which the agent is so registered.

4.8 Common Representative

If a common representative is appointed, the request shall so indicate.

4.9 Designation of States

(a) Contracting States shall be designated in the request:

(i) in the case of designations for the purpose of obtaining national patents, by an indication of each State concerned;

(ii) in the case of designations for the purpose of obtaining a regional patent, by an indication that a regional patent is desired either for all Contracting States which are party to the regional patent treaty concerned or only for such Contracting States as are specified.

(b) The request may contain an indication that all designations which would be permitted under the Treaty, other than those made under paragraph (a), are also made, provided that:

(i) at least one Contracting State is designated under paragraph (a), and

(ii) the request also contains a statement that any designation made under this paragraph is subject to confirmation as provided in paragraph (c) and that any designation which is not so confirmed before the expiration of 15 months from the priority date is to be regarded as withdrawn by the applicant at the expiration of that time limit.

(c) The confirmation of any designation made under paragraph (b) shall be effected by

(i) filing with the receiving Office a written notice containing an indication as referred to in paragraph (a)(i) or (ii), and

(ii) paying to the receiving Office the designation fee and the confirmation fee referred to in Rule 15.5

within the time limit under paragraph (b)(ii).

4.10 Priority Claimn*

(a) Any declaration referred to in Article 8(1) ("priority claim") may claim the priority of one or more earlier applications filed either in or for any country party to the Paris Convention for the Protection of Industrial Property or in

or for any Member of the World Trade Organization that is not party to that Convention. Any priority claim shall, subject to Rule 26*bis*.1, be made in the request; it shall consist of a statement to the effect that the priority of an earlier application is claimed and shall indicate:

(i) the date on which the earlier application was filed, being a date falling within the period of 12 months preceding the international filing date;

(ii) the number of the earlier application;

(iii) where the earlier application is a national application, the country party to the Paris Convention for the Protection of Industrial Property or the Member of the World Trade Organization that is not party to that Convention in which it was filed;

(iv) where the earlier application is a regional application, the authority entrusted with the granting of regional patents under the applicable regional patent treaty;

(v) where the earlier application is an international application, the receiving Office with which it was filed.

(b) In addition to any indication required under paragraph (a)(iv) or (v):

(i) where the earlier application is a regional application or an international application, the priority claim may indicate one or more countries party to the Paris Convention for the Protection of Industrial Property for which that earlier application was filed;

(ii) where the earlier application is a regional application and at least one of the countries party to the regional patent treaty is neither party to the Paris Convention for the Protection of Industrial Property nor a Member of the World Trade Organization, the priority claim shall indicate at least one country party to that Convention or one Member of that Organization for which that earlier application was filed.

(c) For the purposes of paragraphs (a) and (b), Article 2(vi) shall not apply.

(d) If, on September 29, 1999, paragraphs (a) and (b) as amended with effect from January 1, 2000, are not compatible with the national law applied by a designated Office, those paragraphs as in force until December 31, 1999, shall continue to apply after that date in respect of that designated Office for as long as the said paragraphs as amended continue not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by October 31, 1999. The information received shall be promptly published by the International Bureau in the Gazette.

4.11 Reference to Earlier Search

If an international or international-type search has been requested on an application under Article 15(5) or if the applicant wishes the International Searching Authority to base the international search report wholly or in part on the results of a search, other than an international or international-type search, made by the national Office or intergovernmental organization which is the International Searching Authority competent for the international application, the request shall contain a reference to that fact. Such reference shall either identify the application (or its translation, as the case may be) in respect of which the earlier search was made by indicating country, date and number, or the said search by indicating, where applicable, date and number of the request for such search.

4.12 Choice of Certain Kinds of Protection

(a) If the applicant wishes his international application to be treated, in any designated State, as an application not for a patent but for the grant of any of the other kinds of protection specified in Article 43, he shall so indicate in the request. For the purposes of this paragraph, Article 2(ii) shall not apply.

(b) In the case provided for in Article 44, the applicant shall indicate the two kinds of protection sought, or, if one of two kinds of protection is primarily sought, he shall indicate which kind is sought primarily and which kind is sought subsidiarily.

4.13 Identification of Parent Application or Parent Grant

If the applicant wishes his international application to be treated, in any designated State, as an application for a patent or certificate of addition, inventor's certificate of addition, or utility certificate of addition, he shall identify the parent application or the parent patent, parent inventor's certificate, or parent utility certificate to which the patent or certificate of addition, inventor's certificate of addition, or utility certificate of addition, if granted, relates. For the purposes of this paragraph Article 2(ii) shall not apply.

4.14 Continuation or Continuation-in-Part

If the applicant wishes his international application to be treated, in any designated State, as an application for a continuation or a continuation-in- part of an earlier application, he shall so indicate in the request and shall identify the parent application involved.

4.14bis Choice of International Searching Authority

If two or more International Searching Authorities are competent for the searching of the international application, the applicant shall indicate his choice of International Searching Authority in the request.

4.15 Signature

(a) Subject to paragraph (b), the request shall be signed by the applicant or, if there is more than one applicant, by all of them.

(b) Where two or more applicants file an international application which designates a State whose national law requires that national applications be filed by the inventor and where an applicant for that designated State who is an inventor refused to sign the request or could not be found or reached after diligent effort, the request need not be signed by that applicant if it is signed by at least one applicant and a statement is furnished explaining, to the satisfaction of the receiving Office, the lack of the signature concerned.

4.16 Transliteration or Translation of Certain Words

(a) Where any name or address is written in characters other than those of the Latin alphabet, the same shall also be indicated in characters of the Latin alphabet either as a mere transliteration or through translation into English. The applicant shall decide which words will be merely transliterated and which words will be so translated.

(b) The name of any country written in characters other than those of the Latin alphabet shall also be indicated in English.

4.17 Declarations Relating to National Requirements Referred to in Rule 51***bis.***1(a)(i) to (v)

The request may, for the purposes of the national law applicable in one or more designated States, contain one or more of the following declarations, worded as prescribed by the Administrative Instructions:

(i) a declaration as to the identity of the inventor, as referred to in Rule 51*bis*.1(a)(i);

(ii) a declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent, as referred to in Rule 51*bis*.1(a)(ii);

(iii) a declaration as to the applicant's entitlement, as at the international filing date, to claim priority of the earlier application, as referred to in Rule 51*bis*.1(a)(iii);

(iv) a declaration of inventorship, as referred to in Rule 51*bis*.1(a)(iv), which shall be signed as prescribed by the Administrative Instructions;

(v) a declaration as to non-prejudicial disclosures or exceptions to lack of novelty, as referred to in Rule 51*bis*.1(a)(v).

4.18 Additional Matter

(a) The request shall contain no matter other than that specified in Rules 4.1 to 4.17, provided that the Administrative Instructions may permit, but cannot make mandatory, the inclusion in the request of any additional matter specified in the Administrative Instructions.

(b) If the request contains matter other than that specified in Rules 4.1 to 4.17 or permitted under paragraph (a) by the Administrative Instructions, the receiving Office shall *ex officio* delete the additional matter.

FOOTNOTES:
[n1] Footnote *. *Editor's Note*: Paragraphs (a) and (b) of Rule 4.10 as amended with effect from January 1, 2000, do not apply in respect of any designated Office which has informed the International Bureau of incompatibility with the national law applied by that Office, as provided by paragraph (d) of that Rule. Paragraphs (a) and (b) as in force until December 31, 1999, continue to apply after that date in respect of any such designated Office for as long as those paragraphs as amended continue not to be compatible with the applicable national law. Information received by the International Bureau concerning any such incompatibility is published in the Gazette. The text of paragraphs (a) and (b) as in force until December 31, 1999, is reproduced below:"4.10 *Priority Claim*(a) Any declaration referred to in Article 8(1) ("priority claim") shall, subject to Rule 26*bis*.1, be made in the request; it shall consist of a statement to the effect that the priority of an earlier application is claimed and shall indicate:(i) the date on which the earlier application was filed, being a date falling within the period of 12 months preceding the international filing date;(ii) the number of the earlier application;(iii) where the earlier application is a national application, the country party to the Paris Convention for the Protection of Industrial Property in which it was filed;(iv) where the earlier application is a regional application, the authority entrusted with the granting of regional patents under the applicable regional patent treaty;(v) where the earlier application is an international application, the receiving Office with which it was filed.(b) In addition to any indication required under paragraph (a)(iv) or (v):(i) where the earlier application is a regional application or an international application, the priority claim may indicate one or more countries party to the Paris Convention for the Protection of Industrial Property for which that earlier application was filed;(ii) where the earlier application is a regional application and the countries party to the regional patent treaty are not all party to the Paris Convention for the Protection of Industrial Property, the priority claim shall indicate at least one country party to that Convention for which that earlier application was filed."

Rule 5 The Description

5.1 Manner of the Description

(a) The description shall first state the title of the invention as appearing in the request and shall:

(i) specify the technical field to which the invention relates;

(ii) indicate the background art which, as far as known to the applicant, can be regarded as useful for the understanding, searching and examination of the invention, and, preferably, cite the documents reflecting such art;

(iii) disclose the invention, as claimed, in such terms that the technical problem (even if not expressly stated as such) and its solution can be understood, and state the advantageous effects, if any, of the invention with reference to the background art;

(iv) briefly describe the figures in the drawings, if any;

(v) set forth at least the best mode contemplated by the applicant for carrying out the invention claimed; this shall be done in terms of examples, where appropriate, and with reference to the drawings, if any; where the national law of the designated State does not require the description of the best mode but is satisfied with the description of any mode (whether it is the best contemplated or not), failure to describe the best mode contemplated shall have no effect in that State;

(vi) indicate explicitly, when it is not obvious from the description or nature of the invention, the way in which the invention is capable of exploitation in industry and the way in which it can be made and used, or, if it can only be used, the way in which it can be used; the term "industry" is to be understood in its broadest sense as in the Paris Convention for the Protection of Industrial Property.

(b) The manner and order specified in paragraph (a) shall be followed except when, because of the nature of the invention, a different manner or a different order would result in a better understanding and a more economic presentation.

(c) Subject to the provisions of paragraph (b), each of the parts referred to in paragraph (a) shall preferably be preceded by an appropriate heading as suggested in the Administrative Instructions.

5.2 Nucleotide and/or Amino Acid Sequence Disclosure

(a) Where the international application contains disclosure of one or more nucleotide and/or amino acid sequences, the description shall contain a sequence listing complying with the standard provided for in the Administrative Instructions and presented as a separate part of the description in accordance with that standard.

(b) Where the sequence listing part of the description contains any free text as defined in the standard provided for in the Administrative Instructions, that free text shall also appear in the main part of the description in the language thereof.

Rule 6 The Claims

6.1 Number and Numbering of Claims

(a) The number of the claims shall be reasonable in consideration of the nature of the invention claimed.

(b) If there are several claims, they shall be numbered consecutively in Arabic numerals.

(c) The method of numbering in the case of the amendment of claims shall be governed by the Administrative Instructions.

6.2 References to Other Parts of the International Application

(a) Claims shall not, except where absolutely necessary, rely, in respect of the technical features of the invention, on references to the description or drawings. In particular, they shall not rely on such references as: "as described in part ... of the description," or "as illustrated in figure ... of the drawings."

(b) Where the international application contains drawings, the technical features mentioned in the claims shall preferably be followed by the reference signs relating to such features. When used, the reference signs shall preferably be placed between parentheses. If inclusion of reference signs does not particularly facilitate quicker understanding of a claim, it should not be made. Reference signs may be removed by a designated Office for the purposes of publication by such Office.

6.3 Manner of Claiming

(a) The definition of the matter for which protection is sought shall be in terms of the technical features of the invention.

(b) Whenever appropriate, claims shall contain:

(i) a statement indicating those technical features of the invention which are necessary for the definition of the claimed subject matter but which, in combination, are part of the prior art,

(ii) a characterizing portion--preceded by the words "characterized in that," "characterized by," "wherein the improvement comprises," or any other words to the same effect--stating concisely the technical features which, in combination with the features stated under (i), it is desired to protect.

(c) Where the national law of the designated State does not require the manner of claiming provided for in paragraph (b), failure to use that manner of claiming shall have no effect in that State provided the manner of claiming actually used satisfies the national law of that State.

6.4 Dependent Claims

(a) Any claim which includes all the features of one or more other claims (claim in dependent form, hereinafter referred to as "dependent claim") shall do so by a reference, if possible at the beginning, to the other claim or claims and shall then state the additional features claimed. Any dependent claim which refers to more than one other claim ("multiple dependent claim") shall refer to such claims in the alternative only. Multiple dependent claims shall not serve as a basis for any other multiple dependent claim. Where the national law of the national Office acting as International Searching Authority does not allow multiple dependent claims to be drafted in a manner different from that provided for in the preceding two sentences, failure to use that manner of claiming may result in an indication under Article 17(2)(b) in the international search report. Failure to use the said manner of claiming shall have no effect in a designated State if the manner of claiming actually used satisfies the national law of that State.

(b) Any dependent claim shall be construed as including all the limitations contained in the claim to which it refers or, if the dependent claim is a multiple dependent claim, all the limitations contained in the particular claim in relation to which it is considered.

(c) All dependent claims referring back to a single previous claim, and all dependent claims referring back to several previous claims, shall be grouped together to the extent and in the most practical way possible.

6.5 Utility Models

Any designated State in which the grant of a utility model is sought on the basis of an international application may, instead of Rules 6.1 to 6.4, apply in respect of the matters regulated in those Rules the provisions of its national law concerning utility models once the processing of the international application has started in that State, provided that the applicant shall be allowed at least two months from the expiration of the time limit applicable under Article 22 to adapt his application to the requirements of the said provisions of the national law.

Rule 7 The Drawings

7.1 Flow Sheets and Diagrams

Flow sheets and diagrams are considered drawings.

7.2 Time Limit

The time limit referred to in Article 7(2)(ii) shall be reasonable under the circumstances of the case and shall, in no case, be shorter than two months from the date of the written invitation requiring the filing of drawings or additional drawings under the said provision.

Rule 8 The Abstract

8.1 Contents and Form of the Abstract

(a) The abstract shall consist of the following:

(i) a summary of the disclosure as contained in the description, the claims, and any drawings; the summary shall indicate the technical field to which the invention pertains and shall be drafted in a way which allows the clear understanding of the technical problem, the gist of the solution of that problem through the invention, and the principal use or uses of the invention;

(ii) where applicable, the chemical formula which, among all the formulae contained in the international application, best characterizes the invention.

(b) The abstract shall be as concise as the disclosure permits (preferably 50 to 150 words if it is in English or when translated into English).

(c) The abstract shall not contain statements on the alleged merits or value of the claimed invention or on its speculative application.

(d) Each main technical feature mentioned in the abstract and illustrated by a drawing in the international application shall be followed by a reference sign, placed between parentheses.

8.2 Figure

(a) If the applicant fails to make the indication referred to in Rule 3.3(a)(iii), or if the International Searching Authority finds that a figure or figures other than that figure or those figures suggested by the applicant would, among all the figures of all the drawings, better characterize the invention, it shall, subject to paragraph (b), indicate the figure or figures which should accompany the abstract when the latter is published by the International Bureau. In such case, the abstract shall be accompanied by the figure or figures so indicated by the International Searching Authority. Otherwise, the abstract shall, subject to paragraph (b), be accompanied by the figure or figures suggested by the applicant.

(b) If the International Searching Authority finds that none of the figures of the drawings is useful for the understanding of the abstract, it shall notify the International Bureau accordingly. In such case, the abstract, when published by the International Bureau, shall not be accompanied by any figure of the drawings even where the applicant has made a suggestion under Rule 3.3(a)(iii).

8.3 Guiding Principles in Drafting

The abstract shall be so drafted that it can efficiently serve as a scanning tool for purposes of searching in the particular art, especially by assisting the scientist, engineer or researcher in formulating an opinion on whether there is a need for consulting the international application itself.

Rule 9 Expressions, Etc., Not to Be Used

9.1 Definition

The international application shall not contain:

(i) expressions or drawings contrary to morality;

(ii) expressions or drawings contrary to public order;

(iii) statements disparaging the products or processes of any particular person other than the applicant, or the merits or validity of applications or patents of any such person (mere comparisons with the prior art shall not be considered disparaging *per se*);

(iv) any statement or other matter obviously irrelevant or unnecessary under the circumstances.

9.2 Noting of Lack of Compliance

The receiving Office and the International Searching Authority may note lack of compliance with the prescriptions of Rule 9.1 and may suggest to the applicant that he voluntarily correct his international application accordingly. If the lack of compliance was noted by the receiving Office, that Office shall inform the competent International Searching Authority and the International Bureau; if the lack of compliance was noted by the International Searching Authority, that Authority shall inform the receiving Office and the International Bureau.

9.3 Reference to Article 21(6)

"Disparaging statements," referred to in Article 21(6), shall have the meaning as defined in Rule 9.1(iii).

Rule 10 Terminology and Signs

10.1 Terminology and Signs

(a) Units of weights and measures shall be expressed in terms of the metric system, or also expressed in such terms if first expressed in terms of a different system.

(b) Temperatures shall be expressed in degrees Celsius, or also expressed in degrees Celsius, if first expressed in a different manner.

(c) [*Deleted*]

(d) For indications of heat, energy, light, sound, and magnetism, as well as for mathematical formulae and electrical units, the rules of international practice shall be observed; for chemical formulae, the symbols, atomic weights, and molecular formulae, in general use, shall be employed.

(e) In general, only such technical terms, signs and symbols should be used as are generally accepted in the art.

(f) When the international application or its translation is in Chinese, English or Japanese, the beginning of any decimal fraction shall be marked by a period, whereas, when the international application or its translation is in a language other than Chinese, English or Japanese, it shall be marked by a comma.

10.2 Consistency

The terminology and the signs shall be consistent throughout the international application.

Rule 11 Physical Requirements of the International Application

11.1 Number of Copies

(a) Subject to the provisions of paragraph (b), the international application and each of the documents referred to in the check list (Rule 3.3(a)(ii)) shall be filed in one copy.

(b) Any receiving Office may require that the international application and any of the documents referred to in the check list (Rule 3.3(a)(ii)), except the receipt for the fees paid or the check for the payment of the fees, be filed in two or three copies. In that case, the receiving Office shall be responsible for verifying the identity of the second and the third copies with the record copy.

11.2 Fitness for Reproduction

(a) All elements of the international application (i.e., the request, the description, the claims, the drawings, and the abstract) shall be so presented as to admit of direct reproduction by photography, electrostatic processes, photo offset, and microfilming, in any number of copies.

(b) All sheets shall be free from creases and cracks; they shall not be folded.

(c) Only one side of each sheet shall be used.

(d) Subject to Rule 11.10(d) and Rule 11.13(j), each sheet shall be used in an upright position (i.e., the short sides at the top and bottom).

11.3 Material to Be Used

All elements of the international application shall be on paper which shall be flexible, strong, white, smooth, non-shiny, and durable.

11.4 Separate Sheets, Etc.

(a) Each element (request, description, claims, drawings, abstract) of the international application shall commence on a new sheet.

(b) All sheets of the international application shall be so connected that they can be easily turned when consulted, and easily separated and joined again if they have been separated for reproduction purposes.

11.5 Size of Sheets

The size of the sheets shall be A4 (29.7 cm x 21 cm). However, any receiving Office may accept international applications on sheets of other sizes provided that the record copy, as transmitted to the International Bureau, and, if the competent International Searching Authority so desires, the search copy, shall be of A4 size.

11.6 Margins

(a) The minimum margins of the sheets containing the description, the claims, and the abstract, shall be as follows:

-- top: 2 cm

-- left side: 2.5 cm

-- right side: 2 cm

-- bottom: 2 cm.

(b) The recommended maximum, for the margins provided for in paragraph (a), is as follows:

-- top: 4 cm

-- left side: 4 cm

-- right side: 3 cm

-- bottom: 3 cm.

(c) On sheets containing drawings, the surface usable shall not exceed 26.2 cm x 17.0 cm. The sheets shall not contain frames around the usable or used surface. The minimum margins shall be as follows:

-- top: 2.5 cm

-- left side: 2.5 cm

-- right side: 1.5 cm

-- bottom: 1 cm.

(d) The margins referred to in paragraphs (a) to (c) apply to A4-size sheets, so that, even if the receiving Office accepts other sizes, the A4-size record copy and, when so required, the A4-size search copy shall leave the aforesaid margins.

(e) Subject to paragraph (f) and to Rule 11.8(b), the margins of the international application, when submitted, must be completely blank.

(f) The top margin may contain in the left-hand corner an indication of the applicant's file reference, provided that the reference appears within 1.5 cm from the top of the sheet. The number of characters in the applicant's file reference shall not exceed the maximum fixed by the Administrative Instructions.

11.7 Numbering of Sheets

(a) All the sheets contained in the international application shall be numbered in consecutive Arabic numerals.

(b) The numbers shall be centered at the top or bottom of the sheet, but shall not be placed in the margin.

11.8 Numbering of Lines

(a) It is strongly recommended to number every fifth line of each sheet of the description, and of each sheet of claims.

(b) The numbers should appear in the right half of the left margin.

11.9 Writing of Text Matter

(a) The request, the description, the claims and the abstract shall be typed or printed.

(b) Only graphic symbols and characters, chemical or mathematical formulae, and certain characters in the Chinese or Japanese language may, when necessary, be written by hand or drawn.

(c) The typing shall be 1 1/2 -spaced.

(d) All text matter shall be in characters the capital letters of which are not less than 0.21 cm high, and shall be in a dark, indelible color, satisfying the requirements specified in Rule 11.2.

(e) As far as the spacing of the typing and the size of the characters are concerned, paragraphs (c) and (d) shall not apply to texts in the Chinese or Japanese language.

11.10 Drawings, Formulae, and Tables, in Text Matter

(a) The request, the description, the claims and the abstract shall not contain drawings.

(b) The description, the claims and the abstract may contain chemical or mathematical formulae.

(c) The description and the abstract may contain tables; any claim may contain tables only if the subject matter of the claim makes the use of tables desirable.

(d) Tables and chemical or mathematical formulae may be placed sideways on the sheet if they cannot be presented satisfactorily in an upright position thereon; sheets on which tables or chemical or mathematical formulae are presented sideways shall be so presented that the tops of the tables or formulae are at the left side of the sheet.

11.11 Words in Drawings

(a) The drawings shall not contain text matter, except a single word or words, when absolutely indispensable, such as "water," "steam," "open," "closed," "section on AB," and, in the case of electric circuits and block schematic or flow sheet diagrams, a few short catchwords indispensable for understanding.

(b) Any words used shall be so placed that, if translated, they may be pasted over without interfering with any lines of the drawings.

11.12 Alterations, Etc.

Each sheet shall be reasonably free from erasures and shall be free from alterations, overwritings, and interlineations. Non-compliance with this Rule may be authorized if the authenticity of the content is not in question and the requirements for good reproduction are not in jeopardy.

11.13 Special Requirements for Drawings

(a) Drawings shall be executed in durable, black, sufficiently dense and dark, uniformly thick and well-defined, lines and strokes without colorings.

(b) Cross-sections shall be indicated by oblique hatching which should not impede the clear reading of the reference signs and leading lines.

(c) The scale of the drawings and the distinctness of their graphical execution shall be such that a photographic reproduction with a linear reduction in size to two-thirds would enable all details to be distinguished without difficulty.

(d) When, in exceptional cases, the scale is given on a drawing, it shall be represented graphically.

(e) All numbers, letters and reference lines, appearing on the drawings, shall be simple and clear. Brackets, circles or inverted commas shall not be used in association with numbers and letters.

(f) All lines in the drawings shall, ordinarily, be drawn with the aid of drafting instruments.

(g) Each element of each figure shall be in proper proportion to each of the other elements in the figure, except where the use of a different proportion is indispensable for the clarity of the figure.

(h) The height of the numbers and letters shall not be less than 0.32 cm. For the lettering of drawings, the Latin and, where customary, the Greek alphabets shall be used.

(i) The same sheet of drawings may contain several figures. Where figures on two or more sheets form in effect a single complete figure, the figures on the several sheets shall be so arranged that the complete figure can be assembled without concealing any part of any of the figures appearing on the various sheets.

(j) The different figures shall be arranged on a sheet or sheets without wasting space, preferably in an upright position, clearly separated from one another. Where the figures are not arranged in an upright position, they shall be presented sideways with the top of the figures at the left side of the sheet.

(k) The different figures shall be numbered in Arabic numerals consecutively and independently of the numbering of the sheets.

(l) Reference signs not mentioned in the description shall not appear in the drawings, and vice versa.

(m) The same features, when denoted by reference signs, shall, throughout the international application, be denoted by the same signs.

(n) If the drawings contain a large number of reference signs, it is strongly recommended to attach a separate sheet listing all reference signs and the features denoted by them.

11.14 Later Documents

Rules 10, and 11.1 to 11.13, also apply to any document--for example, corrected pages, amended claims, translations--submitted after the filing of the international application.

Rule 12 Language of the International Application and Translation for the Purposes of International Search

12.1 Languages Accepted for the Filing of International Applications

(a) An international application shall be filed in any language which the receiving Office accepts for that purpose.

(b) Each receiving Office shall, for the filing of international applications, accept at least one language which is both:

(i) a language accepted by the International Searching Authority, or, if applicable, by at least one of the International Searching Authorities, competent for the international searching of international applications filed with that receiving Office, and

(ii) a language of publication.

(c) Notwithstanding paragraph (a), the request shall be filed in a language which is both a language accepted by the receiving Office under that paragraph and a language of publication.

(d) Notwithstanding paragraph (a), any text matter contained in the sequence listing part of the description referred to in Rule 5.2(a) shall be presented in accordance with the standard provided for in the Administrative Instructions.

12.2 Language of Changes in the International Application

(a) Any amendment of the international application shall, subject to Rules 46.3, 55.3 and 66.9, be in the language in which the application is filed.

(b) Any rectification under Rule 91.1 of an obvious error in the international application shall be in the language in which the application is filed, provided that:

(i) where a translation of the international application is required under Rule 12.3(a), 48.3(b) or 55.2(a), rectifications referred to in Rule 91.1(e)(ii) and (iii) shall be filed in both the language of the application and the language of that translation;

(ii) where a translation of the request is required under Rule 26.3*ter*(c), rectifications referred to in Rule 91.1(e)(i) need only be filed in the language of that translation.

(c) Any correction under Rule 26 of a defect in the international application shall be in the language in which the international application is filed. Any correction under Rule 26 of a defect in a translation of the international application furnished under Rule 12.3 or 55.2(a), or in a translation of the request furnished under Rule 26.3*ter*(c), shall be in the language of the translation.

12.3 Translation for the Purposes of International Search

(a) Where the language in which the international application is filed is not accepted by the International Searching Authority that is to carry out the international search, the applicant shall, within one month from the date of receipt of the international application by the receiving Office, furnish to that Office a translation of the international application into a language which is all of the following:

(i) a language accepted by that Authority, and

(ii) a language of publication, and

(iii) a language accepted by the receiving Office under Rule 12.1(a), unless the international application is filed in a language of publication.

(b) Paragraph (a) shall not apply to the request nor to any sequence listing part of the description.

(c) Where, by the time the receiving Office sends to the applicant the notification under Rule 20.5(c), the applicant has not furnished a translation required under paragraph (a), the receiving Office shall, preferably together with that notification, invite the applicant:

(i) to furnish the required translation within the time limit under paragraph (a);

(ii) in the event that the required translation is not furnished within the time limit under paragraph (a), to furnish it and to pay, where applicable, the late furnishing fee referred to in paragraph (e), within one month from the date of the invitation or two months from the date of receipt of the international application by the receiving Office, whichever expires later.

(d) Where the receiving Office has sent to the applicant an invitation under paragraph (c) and the applicant has not, within the applicable time limit under paragraph (c)(ii), furnished the required translation and paid any required late furnishing fee, the international application shall be considered withdrawn and the receiving Office shall so declare. Any translation and any payment received by the receiving Office before that Office makes the declaration under the previous sentence and before the expiration of 15 months from the priority date shall be considered to have been received before the expiration of that time limit.

(e) The furnishing of a translation after the expiration of the time limit under paragraph (a) may be subjected by the receiving Office to the payment to it, for its own benefit, of a late furnishing fee equal to 50% of the basic fee.

Rule 13 Unity of Invention

13.1 Requirement

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

13.2 Circumstances in Which the Requirement of Unity of Invention Is to Be Considered Fulfilled

Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

13.3 Determination of Unity of Invention Not Affected by Manner of Claiming

The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim.

13.4 Dependent Claims

Subject to Rule 13.1, it shall be permitted to include in the same international application a reasonable number of dependent claims, claiming specific forms of the invention claimed in an independent claim, even where the features of any dependent claim could be considered as constituting in themselves an invention.

13.5 Utility Models

Any designated State in which the grant of a utility model is sought on the basis of an international application may, instead of Rules 13.1 to 13.4, apply in respect of the matters regulated in those Rules the provisions of its national law concerning utility models once the processing of the international application has started in that State, provided that the applicant shall be allowed at least two months from the expiration of the time limit applicable under Article 22 to adapt his application to the requirements of the said provisions of the national law.

Rule 13bis Inventions Relating to Biological Material

13bis.1 Definition

For the purposes of this Rule, "reference to deposited biological material" means particulars given in an international application with respect to the deposit of biological material with a depositary institution or to the biological material so deposited.

13bis.2 References (General)

Any reference to deposited biological material shall be made in accordance with this Rule and, if so made, shall be considered as satisfying the requirements of the national law of each designated State.

13bis.3 References: Contents; Failure to Include Reference or Indication

(a) A reference to deposited biological material shall indicate:

(i) the name and the address of the depositary institution with which the deposit was made;

(ii) the date of deposit of the biological material with that institution;

(iii) the accession number given to the deposit by that institution; and

(iv) any additional matter of which the International Bureau has been notified pursuant to Rule 13*bis*.7(a)(i), provided that the requirement to indicate that matter was published in the Gazette in accordance with Rule 13*bis*.7(c) at least two months before the filing of the international application.

(b) Failure to include a reference to deposited biological material or failure to include, in a reference to deposited biological material, an indication in accordance with paragraph (a), shall have no consequence in any designated State whose national law does not require such reference or such indication in a national application.

13bis.4 References: Time Limit for Furnishing Indications

(a) Subject to paragraphs (b) and (c), if any of the indications referred to in Rule 13*bis*.3(a) is not included in a reference to deposited biological material in the international application as filed but is furnished to the International Bureau:

(i) within 16 months from the priority date, the indication shall be considered by any designated Office to have been furnished in time;

(ii) after the expiration of 16 months from the priority date, the indication shall be considered by any designated Office to have been furnished on the last day of that time limit if it reaches the International Bureau before the technical preparations for international publication have been completed.

(b) If the national law applicable by a designated Office so requires in respect of national applications, that Office may require that any of the indications referred to in Rule 13*bis*.3(a) be furnished earlier than 16 months from the priority date, provided that the International Bureau has been notified of such requirement pursuant to Rule 13*bis*.7(a)(ii) and has published such requirement in the Gazette in accordance with Rule 13*bis*.7(c) at least two months before the filing of the international application.

(c) Where the applicant makes a request for early publication under Article 21(2)(b), any designated Office may consider any indication not furnished before the technical preparations for international publication have been completed as not having been furnished in time.

(d) The International Bureau shall notify the applicant of the date on which it received any indication furnished under paragraph (a), and

(i) if the indication was received before the technical preparations for international publication have been completed, indicate that date, and include the relevant data from the indication, in the pamphlet published under Rule 48;

(ii) if the indication was received after the technical preparations for international publication have been completed, notify that date and the relevant data from the indication to the designated Offices.

13bis.5 References and Indications for the Purposes of One or More Designated States; Different Deposits for Different Designated States; Deposits with Depositary Institutions Other than Those Notified

(a) A reference to deposited biological material shall be considered to be made for the purposes of all designated States, unless it is expressly made for the purposes of certain of the designated States only; the same applies to the indications included in the reference.

(b) References to different deposits of the biological material may be made for different designated States.

(c) Any designated Office may disregard a deposit made with a depositary institution other than one notified by it under Rule 13*bis*.7(b).

13bis.6 Furnishing of Samples

Pursuant to Articles 23 and 40, no furnishing of samples of the deposited biological material to which a reference is made in an international application shall, except with the authorization of the applicant, take place before the expiration of the applicable time limits after which national processing may start under the said Articles. However, where the applicant performs the acts referred to in Articles 22 or 39 after international publication but before the expiration of the

said time limits, the furnishing of samples of the deposited biological material may take place, once the said acts have been performed. Notwithstanding the previous provision, the furnishing of samples of the deposited biological material may take place under the national law applicable by any designated Office as soon as, under that law, the international publication has the effects of the compulsory national publication of an unexamined national application.

13bis.7 National Requirements: Notification and Publication

(a) Any national Office may notify the International Bureau of any requirement of the national law:

(i) that any matter specified in the notification, in addition to those referred to in Rule 13*bis*.3(a)(i), (ii) and (iii), is required to be included in a reference to deposited biological material in a national application;

(ii) that one or more of the indications referred to in Rule 13*bis*.3(a) are required to be included in a national application as filed or are required to be furnished at a time specified in the notification which is earlier than 16 months from the priority date.

(b) Each national Office shall notify the International Bureau of the depositary institutions with which the national law permits deposits of biological materials to be made for the purposes of patent procedure before that Office or, if the national law does not provide for or permit such deposits, of that fact.

(c) The International Bureau shall promptly publish in the Gazette requirements notified to it under paragraph (a) and information notified to it under paragraph (b).

Rule 13ter Nucleotide and/or Amino Acid Sequence Listings

13ter.1 Sequence Listing for International Authorities

(a) Where the International Searching Authority finds that the international application contains disclosure of one or more nucleotide and/or amino acid sequences but:

(i) the international application does not contain a sequence listing complying with the standard provided for in the Administrative Instructions, that Authority may invite the applicant to furnish to it, within a time limit fixed in the invitation, a sequence listing complying with that standard;

(ii) the applicant has not already furnished a sequence listing in computer readable form complying with the standard provided for in the Administrative Instructions, that Authority may invite the applicant to furnish to it, within a time limit fixed in the invitation, a sequence listing in such a form complying with that standard.

(b) [*Deleted*]

(c) If the applicant does not comply with an invitation under paragraph (a) within the time limit fixed in the invitation, the International Searching Authority shall not be required to search the international application to the extent that such non-compliance has the result that a meaningful search cannot be carried out.

(d) Where the International Searching Authority finds that the description does not comply with Rule 5.2(b), it shall invite the applicant to file the required correction. Rule 26.4 shall apply *mutatis mutandis* to any correction offered by the applicant. The International Searching Authority shall transmit the correction to the receiving Office and to the International Bureau.

(e) Paragraphs (a) and (c) shall apply *mutatis mutandis* to the procedure before the International Preliminary Examining Authority.

(f) Any sequence listing not contained in the international application as filed shall not, subject to Article 34, form part of the international application.

13ter.2 Sequence Listing for Designated Office

Once the processing of the international application has started before a designated Office, Rule 13*ter*.1(a) shall apply *mutatis mutandis* to the procedure before that Office. No designated Office shall require the applicant to furnish to it a sequence listing other than a sequence listing complying with the standard provided for in the Administrative Instructions.

Rule 14 The Transmittal Fee

14.1 The Transmittal Fee

(a) Any receiving Office may require that the applicant pay a fee to it, for its own benefit, for receiving the international application, transmitting copies to the International Bureau and the competent International Searching Authority, and performing all the other tasks which it must perform in connection with the international application in its capacity of receiving Office ("transmittal fee").

(b) The amount of the transmittal fee, if any, shall be fixed by the receiving Office.

(c) The transmittal fee shall be paid within one month from the date of receipt of the international application. The amount payable shall be the amount applicable on that date of receipt.

Rule 15 The International Fee

15.1 Basic Fee and Designation Fee

Each international application shall be subject to the payment of a fee for the benefit of the International Bureau ("international fee") to be collected by the receiving Office and consisting of,

(i) a "basic fee," and

(ii) as many "designation fees" as there are national patents and regional patents sought under Rule 4.9(a), except that, where Article 44 applies in respect of a designation, only one designation fee shall be due for that designation, and that the Schedule of Fees may indicate a maximum number of designation fees payable.

15.2 Amounts

(a) The amounts of the basic fee and of the designation fee are as set out in the Schedule of Fees.

(b) The basic fee and the designation fee shall be payable in the currency or one of the currencies prescribed by the receiving Office ("prescribed currency"), it being understood that, when transferred by the receiving Office to the International Bureau, they shall be freely convertible into Swiss currency. The amounts of the basic fee and of the designation fee shall be established, for each receiving Office which prescribes the payment of those fees in any currency other than Swiss currency, by the Director General after consultation with the receiving Office of, or acting under Rule 19.1(b) for, the State whose official currency is the same as the prescribed currency. The amounts so established shall be the equivalents, in round figures, of the amounts in Swiss currency set out in the Schedule of Fees. They shall be notified by the International Bureau to each receiving Office prescribing payment in that prescribed currency and shall be published in the Gazette.

(c) Where the amounts of the fees set out in the Schedule of Fees are changed, the corresponding amounts in the prescribed currencies shall be applied from the same date as the amounts set out in the amended Schedule of Fees.

(d) Where the exchange rate between Swiss currency and any prescribed currency becomes different from the exchange rate last applied, the Director General shall establish new amounts in the prescribed currency according to directives given by the Assembly. The newly established amounts shall become applicable two months after the date of their publication in the Gazette, provided that the receiving Office referred to in the second sentence of paragraph (b) and the Director General may agree on a date falling during the said two-month period, in which case the said amounts shall become applicable from that date.

15.3 [Deleted]

15.4 Time Limit for Payment; Amount Payable

(a) The basic fee shall be paid within one month from the date of receipt of the international application. The amount payable shall be the amount applicable on that date of receipt.

(b) The designation fee shall be paid within a time limit of:

(i) one year from the priority date, or

(ii) one month from the date of receipt of the international application if that one-month period expires later than one year from the priority date.

(c) Where the designation fee is paid before the expiration of one month from the date of receipt of the international application, the amount payable shall be the amount applicable on that date of receipt. Where the time limit under paragraph (b)(i) applies and the designation fee is paid before the expiration of that time limit but later than one month from the date of receipt of the international application, the amount payable shall be the amount applicable on the date of payment.

15.5 Fees Under Rule 4.9(c)

(a) Notwithstanding Rule 15.4(b), the confirmation under Rule 4.9(c) of any designations made under Rule 4.9(b) shall be subject to the payment to the receiving Office of as many designation fees (for the benefit of the International Bureau) as there are national patents and regional patents sought by the applicant by virtue of the confirmation, together with a confirmation fee (for the benefit of the receiving Office) equal to 50% of the sum of the designation fees payable under this paragraph. Such fees shall be payable in respect of each designation so confirmed, even if the maximum number of designation fees referred to in item 2(a) of the Schedule of Fees is already payable or if a designation fee is already payable in respect of the designation under Rule 4.9(a) of the same State for a different purpose.

(b) Where moneys paid by the applicant within the time limit under Rule 4.9(b)(ii) are not sufficient to cover the fees due under paragraph (a), the receiving Office shall allocate any moneys paid as specified by the applicant or, in the absence of such specification, as prescribed by the Administrative Instructions.

15.6 Refund

The receiving Office shall refund the international fee to the applicant:

(i) if the determination under Article 11(1) is negative,

(ii) if, before the transmittal of the record copy to the International Bureau, the international application is withdrawn or considered withdrawn, or

(iii) if, due to prescriptions concerning national security, the international application is not treated as such.

Rule 16 The Search Fee

16.1 Right to Ask for a Fee

(a) Each International Searching Authority may require that the applicant pay a fee ("search fee") for its own benefit for carrying out the international search and for performing all other tasks entrusted to International Searching Authorities by the Treaty and these Regulations.

(b) The search fee shall be collected by the receiving Office. The said fee shall be payable in the currency or one of the currencies prescribed by that Office ("receiving Office currency"), it being understood that, if any receiving Office currency is not that, or one of those, in which the International Searching Authority has fixed the said fee ("fixed currency"), it shall, when transferred by the receiving Office to the International Searching Authority, be freely convertible into the currency of the State in which the International Searching Authority has its headquarters ("headquarters currency"). The amount of the search fee in any receiving Office currency, other than the fixed currency, shall be established by the Director General after consultation with the receiving Office of, or acting under Rule 19.1(b) for, the State whose official currency is the same as the receiving Office currency. The amounts so established shall be the equivalents, in round figures, of the amount established by the International Searching Authority in the headquarters currency. They shall be notified by the International Bureau to each receiving Office prescribing payment in that receiving Office currency and shall be published in the Gazette.

(c) Where the amount of the search fee in the headquarters currency is changed, the corresponding amounts in the receiving Office currencies, other than the fixed currency or currencies, shall be applied from the same date as the changed amount in the headquarters currency.

(d) Where the exchange rate between the headquarters currency and any receiving Office currency, other than the fixed currency or currencies, becomes different from the exchange rate last applied, the Director General shall establish the new amount in the said receiving Office currency according to directives given by the Assembly. The newly established amount shall become applicable two months after its publication in the Gazette, provided that any receiving Office referred to in the third sentence of paragraph (b) and the Director General may agree on a date falling during the said two-month period, in which case the said amount shall become applicable for that Office from that date.

(e) Where, in respect of the payment of the search fee in a receiving Office currency, other than the fixed currency or currencies, the amount actually received by the International Searching Authority in the headquarters currency is less than that fixed by it, the difference will be paid to the International Searching Authority by the International Bureau, whereas, if the amount actually received is more, the difference will belong to the International Bureau.

(f) As to the time limit for payment of the search fee and the amount payable, the provisions of Rule 15.4(a) relating to the basic fee shall apply *mutatis mutandis*.

16.2 Refund

The receiving Office shall refund the search fee to the applicant:

(i) if the determination under Article 11(1) is negative,

(ii) if, before the transmittal of the search copy to the International Searching Authority, the international application is withdrawn or considered withdrawn, or

(iii) if, due to prescriptions concerning national security, the international application is not treated as such.

16.3 Partial Refund

Where the international application claims the priority of an earlier international application which has been the subject of an international search by the same International Searching Authority, that Authority shall refund the search fee paid in connection with the later international application to the extent and under the conditions provided for in the agreement under Article 16(3)(b), if the international search report on the later international application could wholly or partly be based on the results of the international search effected on the earlier international application.

Rule 16bis Extension of Time Limits for Payment of Fees

16bis.1 Invitation by the Receiving Office

(a) Where, by the time they are due under Rules 14.1(c), 15.4(a) and 16.1(f), the receiving Office finds that no fees were paid to it, or that the amount paid to it is insufficient to cover the transmittal fee, the basic fee and the search fee, the receiving Office shall invite the applicant to pay to it the amount required to cover those fees, together with, where applicable, the late payment fee under Rule 16*bis*.2, within a time limit of one month from the date of the invitation.

(b) Where, by the time they are due under Rule 15.4(b), the receiving Office finds that no fees were paid to it, or that the amount paid to it is insufficient to cover the designation fees necessary to cover all the designations under Rule 4.9(a), the receiving Office shall invite the applicant to pay to it the amount required to cover those fees, together with, where applicable, the late payment fee under Rule 16*bis*.2, within a time limit of one month from the date of the invitation. The amount payable in respect of any designation fee shall be the amount applicable on the last day of the one-year period from the priority date if the time limit under Rule 15.4(b)(i) applies or the amount applicable on the date of receipt of the international application if the time limit under Rule 15.4(b)(ii) applies.

(c) Where the receiving Office has sent to the applicant an invitation under paragraph (a) or (b) and the applicant has not, within the time limit referred to in that paragraph, paid in full the amount due, including, where applicable, the late payment fee under Rule 16*bis*.2, the receiving Office shall, subject to paragraph (d):

(i) allocate any moneys paid as specified by the applicant or, in the absence of such specification, as prescribed by the Administrative Instructions,

(ii) make the applicable declaration under Article 14(3), and

(iii) proceed as provided in Rule 29.

(d) Any payment received by the receiving Office before that Office sends the invitation under paragraph (a) or (b) shall be considered to have been received before the expiration of the time limit under Rule 14.1(c), 15.4(a) or (b) or 16.1(f), as the case may be.

(e) Any payment received by the receiving Office before that Office makes the applicable declaration under Article 14(3) shall be considered to have been received before the expiration of the time limit referred to in paragraph (a) or (b).

16bis.2 Late Payment Fee

(a) The payment of fees in response to an invitation under Rule 16*bis*.1(a) or (b) may be subjected by the receiving Office to the payment to it, for its own benefit, of a late payment fee. The amount of that fee shall be:

(i) 50% of the amount of unpaid fees which is specified in the invitation, or,

(ii) if the amount calculated under item (i) is less than the transmittal fee, an amount equal to the transmittal fee.

(b) The amount of the late payment fee shall not, however, exceed the amount of the basic fee referred to in item 1(a) of the Schedule of Fees.

Rule 17 The Priority Document

17.1 Obligation to Submit Copy of Earlier National or International Application

(a) Where the priority of an earlier national or international application is claimed under Article 8, a copy of that earlier application, certified by the authority with which it was filed ("the priority document"), shall, unless already filed with the receiving Office together with the international application in which the priority claim is made, and subject to paragraph (b), be submitted by the applicant to the International Bureau or to the receiving Office not later than 16 months after the priority date, provided that any copy of the said earlier application which is received by the International Bureau after the expiration of that time limit shall be considered to have been received by that Bureau on the last day of that time limit if it reaches it before the date of international publication of the international application.

(b) Where the priority document is issued by the receiving Office, the applicant may, instead of submitting the priority document, request the receiving Office to prepare and transmit the priority document to the International Bureau. Such request shall be made not later than 16 months after the priority date and may be subjected by the receiving Office to the payment of a fee.

(c) If the requirements of neither of the two preceding paragraphs are complied with, any designated State may disregard the priority claim, provided that no designated Office shall disregard the priority claim before giving the applicant an opportunity to furnish the priority document within a time limit which shall be reasonable under the circumstances.

17.2 Availability of Copies

(a) Where the applicant has complied with Rule 17.1(a) or (b), the International Bureau shall, at the specific request of the designated Office, promptly but not prior to the international publication of the international application, furnish a copy of the priority document to that Office. No such Office shall ask the applicant himself to furnish it with a copy. The applicant shall not be required to furnish a translation to the designated Office before the expiration of the applicable time limit under Article 22. Where the applicant makes an express request to the designated Office under Article 23(2) prior to the international publication of the international application, the International Bureau shall, at the specific request of the designated Office, furnish a copy of the priority document to that Office promptly after receiving it.

(b) The International Bureau shall not make copies of the priority document available to the public prior to the international publication of the international application.

(c) Where the international application has been published under Article 21, the International Bureau shall furnish a copy of the priority document to any person upon request and subject to reimbursement of the cost unless, prior to that publication:

(i) the international application was withdrawn,

(ii) the relevant priority claim was withdrawn or considered, under Rule 26*bis*.2(b), not to have been made.

Rule 18 The Applicant

18.1 Residence and Nationality

(a) Subject to the provisions of paragraphs (b) and (c), the question whether an applicant is a resident or national of the Contracting State of which he claims to be a resident or national shall depend on the national law of that State and shall be decided by the receiving Office.

(b) In any case,

(i) possession of a real and effective industrial or commercial establishment in a Contracting State shall be considered residence in that State, and

(ii) a legal entity constituted according to the national law of a Contracting State shall be considered a national of that State.

(c) Where the international application is filed with the International Bureau as receiving Office, the International Bureau shall, in the circumstances specified in the Administrative Instructions, request the national Office of, or acting for, the Contracting State concerned to decide the question referred to in paragraph (a). The International Bureau shall inform the applicant of any such request. The applicant shall have an opportunity to submit arguments directly to the national Office. The national Office shall decide the said question promptly.

18.2 [Deleted]

18.3 Two or More Applicants

If there are two or more applicants, the right to file an international application shall exist if at least one of them is entitled to file an international application according to Article 9.

18.4 Information on Requirements Under National Law as to Applicants

(a) and (b) [*Deleted*]

(c) The International Bureau shall, from time to time, publish information on the various national laws in respect of the question who is qualified (inventor, successor in title of the inventor, owner of the invention, or other) to file a national application and shall accompany such information by a warning that the effect of the international application in any designated State may depend on whether the person designated in the international application as applicant for the purposes of that State is a person who, under the national law of that State, is qualified to file a national application.

Rule 19 The Competent Receiving Office

19.1 Where to File

(a) Subject to the provisions of paragraph (b), the international application shall be filed, at the option of the applicant,

(i) with the national Office of or acting for the Contracting State of which the applicant is a resident,

(ii) with the national Office of or acting for the Contracting State of which the applicant is a national, or

(iii) irrespective of the Contracting State of which the applicant is a resident or national, with the International Bureau.

(b) Any Contracting State may agree with another Contracting State or any intergovernmental organization that the national Office of the latter State or the intergovernmental organization shall, for all or some purposes, act instead of the national Office of the former State as receiving Office for applicants who are residents or nationals of that former State. Notwithstanding such agreement, the national Office of the former State shall be considered the competent receiving Office for the purposes of Article 15(5).

(c) In connection with any decision made under Article 9(2), the Assembly shall appoint the national Office or the intergovernmental organization which will act as receiving Office for applications of residents or nationals of States specified by the Assembly. Such appointment shall require the previous consent of the said national Office or intergovernmental organization.

19.2 Two or More Applicants

If there are two or more applicants:

(i) the requirements of Rule 19.1 shall be considered to be met if the national Office with which the international application is filed is the national Office of or acting for a Contracting State of which at least one of the applicants is a resident or national;

(ii) the international application may be filed with the International Bureau under Rule 19.1(a)(iii) if at least one of the applicants is a resident or national of a Contracting State.

19.3 Publication of Fact of Delegation of Duties of Receiving Office

(a) Any agreement referred to in Rule 19.1(b) shall be promptly notified to the International Bureau by the Contracting State which delegates the duties of the receiving Office to the national Office of or acting for another Contracting State or an intergovernmental organization.

(b) The International Bureau shall, promptly upon receipt, publish the notification in the Gazette.

19.4 Transmittal to the International Bureau as Receiving Office

(a) Where an international application is filed with a national Office which acts as a receiving Office under the Treaty but

(i) that national Office is not competent under Rule 19.1 or 19.2 to receive that international application, or

(ii) that international application is not in a language accepted under Rule 12.1(a) by that national Office but is in a language accepted under that Rule by the International Bureau as receiving Office, or

(iii) that national Office and the International Bureau agree, for any reason other than those specified under items (i) and (ii), and with the authorization of the applicant, that the procedure under this Rule should apply,

that international application shall, subject to paragraph (b), be considered to have been received by that Office on behalf of the International Bureau as receiving Office under Rule 19.1(a)(iii).

(b) Where, pursuant to paragraph (a), an international application is received by a national Office on behalf of the International Bureau as receiving Office under Rule 19.1(a)(iii), that national Office shall, unless prescriptions concerning national security prevent the international application from being so transmitted, promptly transmit it to the International Bureau. Such transmittal may be subjected by the national Office to the payment of a fee, for its own benefit, equal to the transmittal fee charged by that Office under Rule 14. The international application so transmitted shall be considered to have been received by the International Bureau as receiving Office under Rule 19.1(a)(iii) on the date of receipt of the international application by that national Office.

(c) For the purposes of Rules 14.1(c), 15.4(a) to (c) and 16.1(f), where the international application was transmitted to the International Bureau under paragraph (b), the date of receipt of the international application shall be considered to be the date on which the international application was actually received by the International Bureau. For the purposes of this paragraph, the last sentence of paragraph (b) shall not apply.

Rule 20 Receipt of the International Application

20.1 Date and Number

(a) Upon receipt of papers purporting to be an international application, the receiving Office shall indelibly mark the date of actual receipt on the request of each copy received and the international application number on each sheet of each copy received.

(b) The place on each sheet where the date or number shall be marked, and other details, shall be specified in the Administrative Instructions.

20.2 Receipt on Different Days

(a) In cases where all the sheets pertaining to the same purported international application are not received on the same day by the receiving Office, that Office shall correct the date marked on the request (still leaving legible, however, the earlier date or dates already marked) so that it indicates the day on which the papers completing the international application were received, provided that

(i) where no invitation under Article 11(2)(a) to correct was sent to the applicant, the said papers are received within 30 days from the date on which sheets were first received;

(ii) where an invitation under Article 11(2)(a) to correct was sent to the applicant, the said papers are received within the applicable time limit under Rule 20.6;

(iii) in the case of Article 14(2), the missing drawings are received within 30 days from the date on which the incomplete papers were filed;

(iv) the absence or later receipt of any sheet containing the abstract or part thereof shall not, in itself, require any correction of the date marked on the request.

(b) Any sheet received on a date later than the date on which sheets were first received shall be marked by the receiving Office with the date on which it was received.

20.3 Corrected International Application

In the case referred to in Article 11(2)(b), the receiving Office shall correct the date marked on the request (still leaving legible, however, the earlier date or dates already marked) so that it indicates the day on which the last required correction was received.

20.4 Determination Under Article 11(1)

(a) Promptly after receipt of the papers purporting to be an international application, the receiving Office shall determine whether the papers comply with the requirements of Article 11(1).

(b) For the purposes of Article 11(1)(iii)(c), it shall be sufficient to indicate the name of the applicant in a way which allows his identity to be established even if the name is misspelled, the given names are not fully indicated, or, in the case of legal entities, the indication of the name is abbreviated or incomplete.

(c) For the purposes of Article 11(1)(ii), it shall be sufficient that the part which appears to be a description (other than any sequence listing part thereof) and the part which appears to be a claim or claims be in a language accepted by the receiving Office under Rule 12.1(a).

(d) If, on October 1, 1997, paragraph (c) is not compatible with the national law applied by the receiving Office, paragraph (c) shall not apply to that receiving Office for as long as it continues not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by December 31, 1997. The information received shall be promptly published by the International Bureau in the Gazette.

20.5 Positive Determination

(a) If the determination under Article 11(1) is positive, the receiving Office shall stamp on the request the name of the receiving Office and the words "PCT International Application," or "Demande internationale PCT." If the official language of the receiving Office is neither English nor French, the words "International Application" or "Demande internationale" may be accompanied by a translation of these words in the official language of the receiving Office.

(b) The copy whose request has been so stamped shall be the record copy of the international application.

(c) The receiving Office shall promptly notify the applicant of the international application number and the international filing date. At the same time, it shall send to the International Bureau a copy of the notification sent to the applicant, except where it has already sent, or is sending at the same time, the record copy to the International Bureau under Rule 22.1(a).

20.6 Invitation to Correct

(a) The invitation to correct under Article 11(2) shall specify the requirement provided for under Article 11(1) which, in the opinion of the receiving Office, has not been fulfilled.

(b) The receiving Office shall promptly mail the invitation to the applicant and shall fix a time limit, reasonable under the circumstances of the case, for filing the correction. The time limit shall not be less than 10 days, and shall not exceed one month, from the date of the invitation. If such time limit expires after the expiration of one year from the filing date of any application whose priority is claimed, the receiving Office may call this circumstance to the attention of the applicant.

20.7 Negative Determination

If the receiving Office does not, within the prescribed time limit, receive a reply to its invitation to correct, or if the correction offered by the applicant still does not fulfill the requirements provided for under Article 11(1), it shall:

(i) promptly notify the applicant that his application is not and will not be treated as an international application and shall indicate the reasons therefor,

(ii) notify the International Bureau that the number it has marked on the papers will not be used as an international application number,

(iii) keep the papers constituting the purported international application and any correspondence relating thereto as provided in Rule 93.1, and

(iv) send a copy of the said papers to the International Bureau where, pursuant to a request by the applicant under Article 25(1), the International Bureau needs such a copy and specially asks for it.

20.8 Error by the Receiving Office

If the receiving Office later discovers, or on the basis of the applicant's reply realizes, that it has erred in issuing an invitation to correct since the requirements provided for under Article 11(1) were fulfilled when the papers were received, it shall proceed as provided in Rule 20.5.

20.9 Certified Copy for the Applicant

Against payment of a fee, the receiving Office shall furnish to the applicant, on request, certified copies of the international application as filed and of any corrections thereto.

Rule 21 Preparation of Copies

21.1 Responsibility of the Receiving Office

(a) Where the international application is required to be filed in one copy, the receiving Office shall be responsible for preparing the home copy and the search copy required under Article 12(1).

(b) Where the international application is required to be filed in two copies, the receiving Office shall be responsible for preparing the home copy.

(c) If the international application is filed in less than the number of copies required under Rule 11.1(b), the receiving Office shall be responsible for the prompt preparation of the number of copies required, and shall have the right to fix a fee for performing that task and to collect such fee from the applicant.

Rule 22 Transmittal of the Record Copy and Translation

22.1 Procedure

(a) If the determination under Article 11(1) is positive, and unless prescriptions concerning national security prevent the international application from being treated as such, the receiving Office shall transmit the record copy to the International Bureau. Such transmittal shall be effected promptly after receipt of the international application or, if a check to preserve national security must be performed, as soon as the necessary clearance has been obtained. In any case, the receiving Office shall transmit the record copy in time for it to reach the International Bureau by the expiration of the 13th month from the priority date. If the transmittal is effected by mail, the receiving Office shall mail the record copy not later than five days prior to the expiration of the 13th month from the priority date.

(b) If the International Bureau has received a copy of the notification under Rule 20.5(c) but is not, by the expiration of 13 months from the priority date, in possession of the record copy, it shall remind the receiving Office that it should transmit the record copy to the International Bureau promptly.

(c) If the International Bureau has received a copy of the notification under Rule 20.5(c) but is not, by the expiration of 14 months from the priority date, in possession of the record copy, it shall notify the applicant and the receiving Office accordingly.

(d) After the expiration of 14 months from the priority date, the applicant may request the receiving Office to certify a copy of his international application as being identical with the international application as filed and may transmit such certified copy to the International Bureau.

(e) Any certification under paragraph (d) shall be free of charge and may be refused only on any of the following grounds:

(i) the copy which the receiving Office has been requested to certify is not identical with the international application as filed;

(ii) prescriptions concerning national security prevent the international application from being treated as such;

(iii) the receiving Office has already transmitted the record copy to the International Bureau and that Bureau has informed the receiving Office that it has received the record copy.

(f) Unless the International Bureau has received the record copy, or until it receives the record copy, the copy certified under paragraph (e) and received by the International Bureau shall be considered to be the record copy.

(g) If, by the expiration of the time limit applicable under Article 22, the applicant has performed the acts referred to in that Article but the designated Office has not been informed by the International Bureau of the receipt of the record copy, the designated Office shall inform the International Bureau. If the International Bureau is not in possession of the record copy, it shall promptly notify the applicant and the receiving Office unless it has already notified them under paragraph (c).

(h) Where the international application is to be published in the language of a translation furnished under Rule 12.3, that translation shall be transmitted by the receiving Office to the International Bureau together with the record copy under paragraph (a) or, if the receiving Office has already transmitted the record copy to the International Bureau under that paragraph, promptly after receipt of the translation.

22.2 [Deleted]

22.3 Time Limit Under Article 12(3)

The time limit referred to in Article 12(3) shall be three months from the date of the notification sent by the International Bureau to the applicant under Rule 22.1(c) or (g).

Rule 23 Transmittal of the Search Copy, Translation and Sequence Listing

23.1 Procedure

(a) Where no translation of the international application is required under Rule 12.3(a), the search copy shall be transmitted by the receiving Office to the International Searching Authority at the latest on the same day as the record copy is transmitted to the International Bureau unless no search fee has been paid. In the latter case, it shall be transmitted promptly after payment of the search fee.

(b) Where a translation of the international application is furnished under Rule 12.3, a copy of that translation and of the request, which together shall be considered to be the search copy under Article 12(1), shall be transmitted by the receiving Office to the International Searching Authority, unless no search fee has been paid. In the latter case, a copy of the said translation and of the request shall be transmitted promptly after payment of the search fee.

(c) Any sequence listing in computer readable form which is furnished to the receiving Office shall be transmitted by that Office to the International Searching Authority.

Rule 24 Receipt of the Record Copy by the International Bureau

24.1 [Deleted]

24.2 Notification of Receipt of the Record Copy

(a) The International Bureau shall promptly notify:

(i) the applicant,

(ii) the receiving Office, and

(iii) the International Searching Authority (unless it has informed the International Bureau that it wishes not to be so notified), of the fact and the date of receipt of the record copy. The notification shall identify the international application by its number, the international filing date and the name of the applicant, and shall indicate the filing date of any earlier application whose priority is claimed. The notification sent to the applicant shall also contain a list of the States designated under Rule 4.9(a) and, where applicable, of those States whose designations have been confirmed under Rule 4.9(c).

(b) Each designated Office which has informed the International Bureau that it wishes to receive the notification under paragraph (a) prior to the communication under Rule 47.1 shall be so notified by the International Bureau:

(i) if the designation concerned was made under Rule 4.9(a), promptly after the receipt of the record copy;

(ii) if the designation concerned was made under Rule 4.9(b), promptly after the International Bureau has been informed by the receiving Office of the confirmation of that designation.

(c) If the record copy is received after the expiration of the time limit fixed in Rule 22.3, the International Bureau shall promptly notify the applicant, the receiving Office, and the International Searching Authority, accordingly.

Rule 25 Receipt of the Search Copy by the International Searching Authority

25.1 Notification of Receipt of the Search Copy

The International Searching Authority shall promptly notify the International Bureau, the applicant, and--unless the International Searching Authority is the same as the receiving Office--the receiving Office, of the fact and the date of receipt of the search copy.

Rule 26 Checking by, and Correcting Before, the Receiving Office of Certain Elements of the International Application

26.1 Time Limit for Check

(a) The receiving Office shall issue the invitation to correct provided for in Article 14(1)(b) as soon as possible, preferably within one month from the receipt of the international application.

(b) If the receiving Office issues an invitation to correct the defect referred to in Article 14(1)(a)(iii) or (iv) (missing title or missing abstract), it shall notify the International Searching Authority accordingly.

26.2 Time Limit for Correction

The time limit referred to in Article 14(1)(b) shall be reasonable under the circumstances and shall be fixed in each case by the receiving Office. It shall not be less than one month from the date of the invitation to correct. It may be extended by the receiving Office at any time before a decision is taken.

26.3 Checking of Physical Requirements Under Article 14(1)(a)(v)

(a) Where the international application is filed in a language of publication, the receiving Office shall check:

(i) the international application for compliance with the physical requirements referred to in Rule 11 only to the extent that compliance therewith is necessary for the purpose of reasonably uniform international publication;

(ii) any translation furnished under Rule 12.3 for compliance with the physical requirements referred to in Rule 11 to the extent that compliance therewith is necessary for the purpose of satisfactory reproduction.

(b) Where the international application is filed in a language which is not a language of publication, the receiving Office shall check:

(i) the international application for compliance with the physical requirements referred to in Rule 11 only to the extent that compliance therewith is necessary for the purpose of satisfactory reproduction;

(ii) any translation furnished under Rule 12.3 and the drawings for compliance with the physical requirements referred to in Rule 11 to the extent that compliance therewith is necessary for the purpose of reasonably uniform international publication.

26.3bis Invitation Under Article 14(1)(b) to Correct Defects Under Rule 11

The receiving Office shall not be required to issue the invitation under Article 14(1)(b) to correct a defect under Rule 11 where the physical requirements referred to in that Rule are complied with to the extent required under Rule 26.3.

26.3ter Invitation to Correct Defects Under Article 3(4)(i)

(a) Where the abstract or any text matter of the drawings is filed in a language which is different from the language of the description and the claims, the Receiving Office shall, unless

(i) a translation of the international application is required under Rule 12.3(a), or

(ii) the abstract or the text matter of the drawings is in the language in which the international application is to be published,

invite the applicant to furnish a translation of the abstract or the text matter of the drawings into the language in which the international application is to be published. Rules 26.1(a), 26.2, 26.3, 26.3*bis*, 26.5 and 29.1 shall apply *mutatis mutandis*.

(b) If, on October 1, 1997, paragraph (a) is not compatible with the national law applied by the receiving Office, paragraph (a) shall not apply to that receiving Office for as long as it continues not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by December 31, 1997. The information received shall be promptly published by the International Bureau in the Gazette.

(c) Where the request does not comply with Rule 12.1(c), the receiving Office shall invite the applicant to file a translation so as to comply with that Rule. Rules 3, 26.1(a), 26.2, 26.5 and 29.1 shall apply *mutatis mutandis*.

(d) If, on October 1, 1997, paragraph (c) is not compatible with the national law applied by the receiving Office, paragraph (c) shall not apply to that receiving Office for as long as it continues not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by December 31, 1997. The information received shall be promptly published by the International Bureau in the Gazette.

26.4 Procedure

Any correction offered to the receiving Office may be stated in a letter addressed to that Office if the correction is of such a nature that it can be transferred from the letter to the record copy without adversely affecting the clarity and the direct reproducibility of the sheet on to which the correction is to be transferred; otherwise, the applicant shall be required to submit a replacement sheet embodying the correction and the letter accompanying the replacement sheet shall draw attention to the differences between the replaced sheet and the replacement sheet.

26.5 Decision of the Receiving Office

The receiving Office shall decide whether the applicant has submitted the correction within the time limit under Rule 26.2 and, if the correction has been submitted within that time limit, whether the international application so corrected is or is not to be considered withdrawn, provided that no international application shall be considered withdrawn for lack of compliance with the physical requirements referred to in Rule 11 if it complies with those requirements to the extent necessary for the purpose of reasonably uniform international publication.

26.6 Missing Drawings

(a) If, as provided in Article 14(2), the international application refers to drawings which in fact are not included in that application, the receiving Office shall so indicate in the said application.

(b) The date on which the applicant receives the notification provided for in Article 14(2) shall have no effect on the time limit fixed under Rule 20.2(a)(iii).

Rule 26bis Correction or Addition of Priority Claim

26bis.1 Correction or Addition of Priority Claim

(a) The applicant may correct or add a priority claim by a notice submitted to the receiving Office or the International Bureau within a time limit of 16 months from the priority date or, where the correction or addition would cause a change in the priority date, 16 months from the priority date as so changed, whichever 16-month period expires first, provided that such a notice may be submitted until the expiration of four months from the international filing date. The correction of a priority claim may include the addition of any indication referred to in Rule 4.10.

(b) Any notice referred to in paragraph (a) received by the receiving Office or the International Bureau after the applicant has made a request for early publication under Article 21(2)(b) shall be considered not to have been submitted, unless that request is withdrawn before the technical preparations for international publication have been completed.

(c) Where the correction or addition of a priority claim causes a change in the priority date, any time limit which is computed from the previously applicable priority date and which has not already expired shall be computed from the priority date as so changed.

26bis.2 Invitation to Correct Defects in Priority Claims

(a) Where the receiving Office or, if the receiving Office fails to do so, the International Bureau, finds that a priority claim does not comply with the requirements of Rule 4.10 or that any indication in a priority claim is not the same as the corresponding indication appearing in the priority document, the receiving Office or the International Bureau, as the case may be, shall invite the applicant to correct the priority claim.

(b) If, in response to an invitation under paragraph (a), the applicant does not, before the expiration of the time limit under Rule 26*bis*.1(a), submit a notice correcting the priority claim so as to comply with the requirements of Rule 4.10, that priority claim shall, for the purposes of the procedure under the Treaty, be considered not to have been made and the receiving Office or the International Bureau, as the case may be, shall so declare and shall inform the applicant accordingly, provided that a priority claim shall not be considered not to have been made only because the indication of the number of the earlier application referred to in Rule 4.10(a)(ii) is missing or because an indication in the priority claim is not the same as the corresponding indication appearing in the priority document.

(c) Where the receiving Office or the International Bureau has made a declaration under paragraph (b), the International Bureau shall, upon request made by the applicant and received by the International Bureau prior to the completion of the technical preparations for international publication, and subject to the payment of a special fee whose amount shall be fixed in the Administrative Instructions, publish, together with the international application, information concerning the priority claim which was considered not to have been made. A copy of that request shall be included in the communication under Article 20 where a copy of the pamphlet is not used for that communication or where the international application is not published by virtue of Article 64(3).

Rule 26ter Correction or Addition of Declarations Under Rule 4.17

26ter.1 Correction or Addition of Declarations

The applicant may correct or add to the request any declaration referred to in Rule 4.17 by a notice submitted to the International Bureau within a time limit of 16 months from the priority date, provided that any notice which is received by the International Bureau after the expiration of that time limit shall be considered to have been received on the last day of that time limit if it reaches it before the technical preparations for international publication have been completed.

26ter.2 Processing of Declarations

(a) Where the receiving Office or the International Bureau finds that any declaration referred to in Rule 4.17 is not worded as required or, in the case of the declaration of inventorship referred to in Rule 4.17(iv), is not signed as required, the receiving Office or the International Bureau, as the case may be, may invite the applicant to correct the declaration within a time limit of 16 months from the priority date.

(b) Where the International Bureau receives any declaration or correction under Rule 26*ter*.1 after the expiration of the time limit under Rule 26*ter*.1, the International Bureau shall notify the applicant accordingly and shall proceed as provided for in the Administrative Instructions.

Rule 27 Lack of Payment of Fees

27.1 Fees

(a) For the purposes of Article 14(3)(a), "fees prescribed under Article 3(4)(iv)" means: the transmittal fee (Rule 14), the basic fee part of the international fee (Rule 15.1(i)), the search fee (Rule 16), and, where required, the late payment fee (Rule 16*bis*.2).

(b) For the purposes of Article 14(3)(a) and (b), "the fee prescribed under Article 4(2)" means the designation fee part of the international fee (Rule 15.1(ii)) and, where required, the late payment fee (Rule 16*bis*.2).

Rule 28 Defects Noted by the International Bureau

28.1 Note on Certain Defects

(a) If, in the opinion of the International Bureau, the international application contains any of the defects referred to in Article 14(1)(a)(i), (ii) or (v), the International Bureau shall bring such defects to the attention of the receiving Office.

(b) The receiving Office shall, unless it disagrees with the said opinion, proceed as provided in Article 14(1)(b) and Rule 26.

Rule 29 International Applications or Designations Considered Withdrawn

29.1 Finding by Receiving Office

(a) If the receiving Office declares, under Article 14(1)(b) and Rule 26.5 (failure to correct certain defects), or under Article 14(3)(a) (failure to pay the prescribed fees under Rule 27.1(a)), or under Article 14(4) (later finding of non-compliance with the requirements listed in items (i) to (iii) of Article 11(1)), or under Rule 12.3(d) (failure to furnish a required translation or, where applicable, to pay a late furnishing fee), or under Rule 92.4(g)(i) (failure to furnish the original of a document), that the international application is considered withdrawn:

(i) the receiving Office shall transmit the record copy (unless already transmitted), and any correction offered by the applicant, to the International Bureau;

(ii) the receiving Office shall promptly notify both the applicant and the International Bureau of the said declaration, and the International Bureau shall in turn notify each designated Office which has already been notified of its designation;

(iii) the receiving Office shall not transmit the search copy as provided in Rule 23, or, if such copy has already been transmitted, it shall notify the International Searching Authority of the said declaration;

(iv) the International Bureau shall not be required to notify the applicant of the receipt of the record copy.

(b) If the receiving Office declares under Article 14(3)(b) (failure to pay the prescribed designation fee under Rule 27.1(b)) that the designation of any given State is considered withdrawn, the receiving Office shall promptly notify both the applicant and the International Bureau of the said declaration. The International Bureau shall in turn notify each designated Office which has already been notified of its designation.

29.2 [Deleted]

29.3 Calling Certain Facts to the Attention of the Receiving Office

If the International Bureau or the International Searching Authority considers that the receiving Office should make a finding under Article 14(4), it shall call the relevant facts to the attention of the receiving Office.

29.4 Notification of Intent to Make Declaration Under Article 14(4)

Before the receiving Office issues any declaration under Article 14(4), it shall notify the applicant of its intent to issue such declaration and the reasons therefor. The applicant may, if he disagrees with the tentative finding of the receiving Office, submit arguments to that effect within one month from the notification.

Rule 30 Time Limit Under Article 14(4)

30.1 Time Limit

The time limit referred to in Article 14(4) shall be four months from the international filing date.

Rule 31 Copies Required Under Article 13

31.1 Request for Copies

(a) Requests under Article 13(1) may relate to all, some kinds of, or individual international applications in which the national Office making the request is designated. Requests for all or some kinds of such international applications must be renewed for each year by means of a notification addressed by that Office before November 30 of the preceding year to the International Bureau.

(b) Requests under Article 13(2)(b) shall be subject to the payment of a fee covering the cost of preparing and mailing the copy.

31.2 Preparation of Copies

The preparation of copies required under Article 13 shall be the responsibility of the International Bureau.

Rule 32 Extension of Effects of International Application to Certain Successor States

32.1 Request for Extension of International Application to Successor State

(a) The effects of any international application whose international filing date falls in the period defined in paragraph (b) may, subject to the performance by the applicant of the acts specified in paragraph (c), be extended to a State ("the successor State") whose territory was, before the independence of that State, part of the territory of a Contracting State which subsequently ceased to exist ("the predecessor State"), provided that the successor State has become a Contracting State through the deposit, with the Director General, of a declaration of continuation the effect of which is that the Treaty is applied by the successor State.

(b) The period referred to in paragraph (a) starts on the day following the last day of the existence of the predecessor State and ends two months after the date on which the declaration referred to in paragraph (a) was notified by the Director General to the Governments of the States party to the Paris Convention for the Protection of Industrial Property. However, where the date of independence of the successor State is earlier than the date of the day following the last day of the existence of the predecessor State, the successor State may declare that the said period starts on the date of its independence; such a declaration shall be made together with the declaration referred to in paragraph (a) and shall specify the date of independence.

(c) In respect of any international application whose filing date falls within the applicable period under paragraph (b), the International Bureau shall send the applicant a notification informing him that he may make a request for extension by performing, within three months from the date of that notification, the following acts:

(i) filing with the International Bureau the request for extension;

(ii) paying to the International Bureau an extension fee in Swiss francs, the amount of which shall be the same as the amount of the designation fee referred to in Rule 15.2(a).

(d) This Rule shall not apply to the Russian Federation.

32.2 Effects of Extension to Successor State

(a) Where a request for extension is made in accordance with Rule 32.1,

(i) the successor State shall be considered as having been designated in the international application, and

(ii) the applicable time limit under Article 22 or 39(1) in relation to that State shall be extended until the expiration of at least three months from the date of the request for extension.

(b) Where, in the case of a successor State which is bound by Chapter II of the Treaty, the request for extension was made after, but the demand was made before, the expiration of the 19th month from the priority date, and a later election is made of the successor State within three months from the date of the request for extension, the applicable time limit under paragraph (a)(ii) shall be at least 30 months from the priority date.

(c) The successor State may fix time limits which expire later than those provided in paragraphs (a)(ii) and (b). The International Bureau shall publish information on such time limits in the Gazette.

Rule 33 Relevant Prior Art for the International Search

33.1 Relevant Prior Art for the International Search

(a) For the purposes of Article 15(2), relevant prior art shall consist of everything which has been made available to the public anywhere in the world by means of written disclosure (including drawings and other illustrations) and which is capable of being of assistance in determining that the claimed invention is or is not new and that it does or does not involve an inventive step (i.e., that it is or is not obvious), provided that the making available to the public occurred prior to the international filing date.

(b) When any written disclosure refers to an oral disclosure, use, exhibition, or other means whereby the contents of the written disclosure were made available to the public, and such making available to the public occurred on a date prior to the international filing date, the international search report shall separately mention that fact and the date on which it occurred if the making available to the public of the written disclosure occurred on a date which is the same as, or later than, the international filing date.

(c) Any published application or any patent whose publication date is the same as, or later than, but whose filing date, or, where applicable, claimed priority date, is earlier than the international filing date of the international application searched, and which would constitute relevant prior art for the purposes of Article 15(2) had it been published prior to the international filing date, shall be specially mentioned in the international search report.

33.2 Fields to Be Covered by the International Search

(a) The international search shall cover all those technical fields, and shall be carried out on the basis of all those search files, which may contain material pertinent to the invention.

(b) Consequently, not only shall the art in which the invention is classifiable be searched but also analogous arts regardless of where classified.

(c) The question what arts are, in any given case, to be regarded as analogous shall be considered in the light of what appears to be the necessary essential function or use of the invention and not only the specific functions expressly indicated in the international application.

(d) The international search shall embrace all subject matter that is generally recognized as equivalent to the subject matter of the claimed invention for all or certain of its features, even though, in its specifics, the invention as described in the international application is different.

33.3 Orientation of the International Search

(a) International search shall be made on the basis of the claims, with due regard to the description and the drawings (if any) and with particular emphasis on the inventive concept towards which the claims are directed.

(b) In so far as possible and reasonable, the international search shall cover the entire subject matter to which the claims are directed or to which they might reasonably be expected to be directed after they have been amended.

Rule 34 Minimum Documentation

34.1 Definition

(a) The definitions contained in Article 2(i) and (ii) shall not apply for the purposes of this Rule.

(b) The documentation referred to in Article 15(4) ("minimum documentation") shall consist of:

(i) the "national patent documents" as specified in paragraph (c),

(ii) the published international (PCT) applications, the published regional applications for patents and inventors' certificates, and the published regional patents and inventors' certificates,

(iii) such other published items of non-patent literature as the International Searching Authorities shall agree upon and which shall be published in a list by the International Bureau when agreed upon for the first time and whenever changed.

(c) Subject to paragraphs (d) and (e), the "national patent documents" shall be the following:

(i) the patents issued in and after 1920 by France, the former Reichspatentamt of Germany, Japan, the former Soviet Union, Switzerland (in the French and German languages only), the United Kingdom, and the United States of America,

(ii) the patents issued by the Federal Republic of Germany and the Russian Federation,

(iii) the patent applications, if any, published in and after 1920 in the countries referred to in items (i) and (ii),

(iv) the inventors' certificates issued by the former Soviet Union,

(v) the utility certificates issued by, and the published applications for utility certificates of, France,

(vi) such patents issued by, and such patent applications published in, any other country after 1920 as are in the English, French, German or Spanish language and in which no priority is claimed, provided that the national Office of the interested country sorts out these documents and places them at the disposal of each International Searching Authority.

(d) Where an application is republished once (for example, an *Offenlegungsschrift* as an *Auslegeschrift*) or more than once, no International Searching Authority shall be obliged to keep all versions in its documentation; consequently, each such Authority shall be entitled not to keep more than one version. Furthermore, where an application is granted and is issued in the form of a patent or a utility certificate (France), no International Searching Authority shall be

obliged to keep both the application and the patent or utility certificate (France) in its documentation; consequently, each such Authority shall be entitled to keep either the application only or the patent or utility certificate (France) only.

(e) Any International Searching Authority whose official language, or one of whose official languages, is not Japanese, Russian or Spanish is entitled not to include in its documentation those patent documents of Japan, the Russian Federation and the former Soviet Union as well as those patent documents in the Spanish language, respectively, for which no abstracts in the English language are generally available. English abstracts becoming generally available after the date of entry into force of these Regulations shall require the inclusion of the patent documents to which the abstracts refer no later than six months after such abstracts become generally available. In case of the interruption of abstracting services in English in technical fields in which English abstracts were formerly generally available, the Assembly shall take appropriate measures to provide for the prompt restoration of such services in the said fields.

(f) For the purposes of this Rule, applications which have only been laid open for public inspection are not considered published applications.

Rule 35 The Competent International Searching Authority

35.1 When Only One International Searching Authority Is Competent

Each receiving Office shall, in accordance with the terms of the applicable agreement referred to in Article 16(3)(b), inform the International Bureau which International Searching Authority is competent for the searching of the international applications filed with it, and the International Bureau shall promptly publish such information.

35.2 When Several International Searching Authorities Are Competent

(a) Any receiving Office may, in accordance with the terms of the applicable agreement referred to in Article 16(3)(b), specify several International Searching Authorities:

(i) by declaring all of them competent for any international application filed with it, and leaving the choice to the applicant, or

(ii) by declaring one or more competent for certain kinds of international applications filed with it, and declaring one or more others competent for other kinds of international applications filed with it, provided that, for those kinds of international applications for which several International Searching Authorities are declared to be competent, the choice shall be left to the applicant.

(b) Any receiving Office availing itself of the faculty provided in paragraph (a) shall promptly inform the International Bureau, and the International Bureau shall promptly publish such information.

35.3 When the International Bureau Is Receiving Office Under Rule 19.1(a)(iii)

(a) Where the international application is filed with the International Bureau as receiving Office under Rule 19.1(a)(iii), an International Searching Authority shall be competent for the searching of that international application if it would have been competent had that international application been filed with a receiving Office competent under Rule 19.1(a)(i) or (ii), (b) or (c) or Rule 19.2(i).

(b) Where two or more International Searching Authorities are competent under paragraph (a), the choice shall be left to the applicant.

(c) Rules 35.1 and 35.2 shall not apply to the International Bureau as receiving Office under Rule 19.1(a)(iii).

Rule 36 Minimum Requirements for International Searching Authorities

36.1 Definition of Minimum Requirements

The minimum requirements referred to in Article 16(3)(c) shall be the following:

(i) the national Office or intergovernmental organization must have at least 100 full-time employees with sufficient technical qualifications to carry out searches;

(ii) that Office or organization must have in its possession, or have access to, at least the minimum documentation referred to in Rule 34, properly arranged for search purposes, on paper, in microform or stored on electronic media;

(iii) that Office or organization must have a staff which is capable of searching the required technical fields and which has the language facilities to understand at least those languages in which the minimum documentation referred to in Rule 34 is written or is translated.

Rule 37 Missing or Defective Title

37.1 Lack of Title

If the international application does not contain a title and the receiving Office has notified the International Searching Authority that it has invited the applicant to correct such defect, the International Searching Authority shall proceed with the international search unless and until it receives notification that the said application is considered withdrawn.

37.2 Establishment of Title

If the international application does not contain a title and the International Searching Authority has not received a notification from the receiving Office to the effect that the applicant has been invited to furnish a title, or if the said Authority finds that the title does not comply with Rule 4.3, it shall itself establish a title. Such title shall be established in the language in which the international application is to be published or, if a translation into another language was transmitted under Rule 23.1(b) and the International Searching Authority so wishes, in the language of that translation.

Rule 38 Missing or Defective Abstract

38.1 Lack of Abstract

If the international application does not contain an abstract and the receiving Office has notified the International Searching Authority that it has invited the applicant to correct such defect, the International Searching Authority shall proceed with the international search unless and until it receives notification that the said application is considered withdrawn.

38.2 Establishment of Abstract

(a) If the international application does not contain an abstract and the International Searching Authority has not received a notification from the receiving Office to the effect that the applicant has been invited to furnish an abstract, or if the said Authority finds that the abstract does not comply with Rule 8, it shall itself establish an abstract. Such abstract shall be established in the language in which the international application is to be published or, if a translation

into another language was transmitted under Rule 23.1(b) and the International Searching Authority so wishes, in the language of that translation.

(b) The applicant may, within one month from the date of mailing of the international search report, submit comments on the abstract established by the International Searching Authority. Where that Authority amends the abstract established by it, it shall notify the amendment to the International Bureau.

Rule 39 Subject Matter Under Article 17(2)(a)(i)

39.1 Definition

No International Searching Authority shall be required to search an international application if, and to the extent to which, its subject matter is any of the following:

(i) scientific and mathematical theories,

(ii) plant or animal varieties or essentially biological processes for the production of plants and animals, other than microbiological processes and the products of such processes,

(iii) schemes, rules or methods of doing business, performing purely mental acts or playing games,

(iv) methods for treatment of the human or animal body by surgery or therapy, as well as diagnostic methods,

(v) mere presentations of information,

(vi) computer programs to the extent that the International Searching Authority is not equipped to search prior art concerning such programs.

Rule 40 Lack of Unity of Invention (International Search)

40.1 Invitation to Pay

The invitation to pay additional fees provided for in Article 17(3)(a) shall specify the reasons for which the international application is not considered as complying with the requirement of unity of invention and shall indicate the amount to be paid.

40.2 Additional Fees

(a) The amount of the additional fee due for searching under Article 17(3)(a) shall be determined by the competent International Searching Authority.

(b) The additional fee due for searching under Article 17(3)(a) shall be payable direct to the International Searching Authority.

(c) Any applicant may pay the additional fee under protest, that is, accompanied by a reasoned statement to the effect that the international application complies with the requirement of unity of invention or that the amount of the required additional fee is excessive. Such protest shall be examined by a three-member board or other special instance of the International Searching Authority or any competent higher authority, which, to the extent that it finds the protest justified, shall order the total or partial reimbursement to the applicant of the additional fee. On the request of the applicant, the text of both the protest and the decision thereon shall be notified to the designated Offices together with

the international search report. The applicant shall submit any translation thereof with the furnishing of the translation of the international application required under Article 22.

(d) The three-member board, special instance or competent higher authority, referred to in paragraph (c), shall not comprise any person who made the decision which is the subject of the protest.

(e) Where the applicant has, under paragraph (c), paid an additional fee under protest, the International Searching Authority may, after a prior review of the justification for the invitation to pay an additional fee, require that the applicant pay a fee for the examination of the protest ("protest fee"). The protest fee shall be paid within one month from the date of the notification to the applicant of the result of the review. If the protest fee is not so paid, the protest shall be considered withdrawn. The protest fee shall be refunded to the applicant where the three-member board, special instance or higher authority referred to in paragraph (c) finds that the protest was entirely justified.

40.3 Time Limit

The time limit provided for in Article 17(3)(a) shall be fixed, in each case, according to the circumstances of the case, by the International Searching Authority; it shall not be shorter than 15 or 30 days, respectively, depending on whether the applicant's address is in the same country as or in a different country from that in which the International Searching Authority is located, and it shall not be longer than 45 days, from the date of the invitation.

Rule 41 Earlier Search Other than International Search

41.1 Obligation to Use Results; Refund of Fee

If reference has been made in the request, in the form provided for in Rule 4.11, to an international-type search carried out under the conditions set out in Article 15(5) or to a search other than an international or international-type search, the International Searching Authority shall, to the extent possible, use the results of the said search in establishing the international search report on the international application. The International Searching Authority shall refund the search fee, to the extent and under the conditions provided for in the agreement under Article 16(3)(b) or in a communication addressed to and published in the Gazette by the International Bureau, if the international search report could wholly or partly be based on the results of the said search.

Rule 42 Time Limit for International Search

42.1 Time Limit for International Search

The time limit for establishing the international search report or the declaration referred to in Article 17(2)(a) shall be three months from the receipt of the search copy by the International Searching Authority, or nine months from the priority date, whichever time limit expires later.

Rule 43 The International Search Report

43.1 Identifications

The international search report shall identify the International Searching Authority which established it by indicating the name of such Authority, and the international application by indicating the international application number, the name of the applicant, and the international filing date.

43.2 Dates

The international search report shall be dated and shall indicate the date on which the international search was actually completed. It shall also indicate the filing date of any earlier application whose priority is claimed or, if the priority of more than one earlier application is claimed, the filing date of the earliest among them.

43.3 Classification

(a) The international search report shall contain the classification of the subject matter at least according to the International Patent Classification.

(b) Such classification shall be effected by the International Searching Authority.

43.4 Language

Every international search report and any declaration made under Article 17(2)(a) shall be in the language in which the international application to which it relates is to be published or, if a translation into another language was transmitted under Rule 23.1(b) and the International Searching Authority so wishes, in the language of that translation.

43.5 Citations

(a) The international search report shall contain the citations of the documents considered to be relevant.

(b) The method of identifying any cited document shall be regulated by the Administrative Instructions.

(c) Citations of particular relevance shall be specially indicated.

(d) Citations which are not relevant to all the claims shall be cited in relation to the claim or claims to which they are relevant.

(e) If only certain passages of the cited document are relevant or particularly relevant, they shall be identified, for example, by indicating the page, the column, or the lines, where the passage appears. If the entire document is relevant but some passages are of particular relevance, such passages shall be identified unless such identification is not practicable.

43.6 Fields Searched

(a) The international search report shall list the classification identification of the fields searched. If that identification is effected on the basis of a classification other than the International Patent Classification, the International Searching Authority shall publish the classification used.

(b) If the international search extended to patents, inventors' certificates, utility certificates, utility models, patents or certificates of addition, inventors' certificates of addition, utility certificates of addition, or published applications for any of those kinds of protection, of States, periods, or languages, not included in the minimum documentation as defined in Rule 34, the international search report shall, when practicable, identify the kinds of documents, the States, the periods, and the languages to which it extended. For the purposes of this paragraph, Article 2(ii) shall not apply.

(c) If the international search was based on, or was extended to, any electronic data base, the international search report may indicate the name of the data base and, where considered useful to others and practicable, the search terms used.

43.7 Remarks Concerning Unity of Invention

If the applicant paid additional fees for the international search, the international search report shall so indicate. Furthermore, where the international search was made on the main invention only or on less than all the inventions (Article 17(3)(a)), the international search report shall indicate what parts of the international application were and what parts were not searched.

43.8 Authorized Officer

The international search report shall indicate the name of the officer of the International Searching Authority responsible for that report.

43.9 Additional Matter

The international search report shall contain no matter other than that specified in Rules 33.1(b) and (c), 43.1 to 43.3, 43.5 to 43.8, and 44.2, and the indication referred to in Article 17(2)(b), provided that the Administrative Instructions may permit the inclusion in the international search report of any additional matter specified in the Administrative Instructions. The international search report shall not contain, and the Administrative Instructions shall not permit the inclusion of, any expressions of opinion, reasoning, arguments, or explanations.

43.10 Form

The physical requirements as to the form of the international search report shall be prescribed by the Administrative Instructions.

Rule 44 Transmittal of the International Search Report, Etc

44.1 Copies of Report or Declaration

The International Searching Authority shall, on the same day, transmit one copy of the international search report or the declaration referred to in Article 17(2)(a) to the International Bureau and one copy to the applicant.

44.2 Title or Abstract

The international search report shall either state that the International Searching Authority approves the title and the abstract as submitted by the applicant or be accompanied by the text of the title and/or abstract as established by the International Searching Authority under Rules 37 and 38.

44.3 Copies of Cited Documents

(a) The request referred to in Article 20(3) may be presented any time during seven years from the international filing date of the international application to which the international search report relates.

(b) The International Searching Authority may require that the party (applicant or designated Office) presenting the request pay to it the cost of preparing and mailing the copies. The level of the cost of preparing copies shall be provided for in the agreements referred to in Article 16(3)(b) between the International Searching Authorities and the International Bureau.

(c) [*Deleted*]

(d) Any International Searching Authority may perform the obligations referred to in paragraphs (a) and (b) through another agency responsible to it.

Rule 45 Translation of the International Search Report

45.1 Languages

International search reports and declarations referred to in Article 17(2)(a) shall, when not in English, be translated into English.

Rule 46 Amendment of Claims Before the International Bureau

46.1 Time Limit

The time limit referred to in Article 19 shall be two months from the date of transmittal of the international search report to the International Bureau and to the applicant by the International Searching Authority or 16 months from the priority date, whichever time limit expires later, provided that any amendment made under Article 19 which is received by the International Bureau after the expiration of the applicable time limit shall be considered to have been received by that Bureau on the last day of that time limit if it reaches it before the technical preparations for international publication have been completed.

46.2 Where to File

Amendments made under Article 19 shall be filed directly with the International Bureau.

46.3 Language of Amendments

If the international application has been filed in a language other than the language in which it is published, any amendment made under Article 19 shall be in the language of publication.

46.4 Statement

(a) The statement referred to in Article 19(1) shall be in the language in which the international application is published and shall not exceed 500 words if in the English language or if translated into that language. The statement shall be identified as such by a heading, preferably by using the words "Statement under Article 19(1)" or their equivalent in the language of the statement.

(b) The statement shall contain no disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

46.5 Form of Amendments

The applicant shall be required to submit a replacement sheet for every sheet of the claims which, on account of an amendment or amendments under Article 19, differs from the sheet originally filed. The letter accompanying the replacement sheets shall draw attention to the differences between the replaced sheets and the replacement sheets. To the extent that any amendment results in the cancellation of an entire sheet, that amendment shall be communicated in a letter.

Rule 47 Communication to Designated Offices

47.1 Procedure

(a) The communication provided for in Article 20 shall be effected by the International Bureau.

(a-*bis*) The International Bureau shall notify each designated Office, at the time of the communication provided for in Article 20, of the fact and date of receipt of the record copy and of the fact and date of receipt of any priority document. Such notification shall also be sent to any designated Office which has waived the communication provided for in Article 20, unless such Office has also waived the notification of its designation.

(a-*ter*) The notification under paragraph (a-*bis*) shall include any declaration referred to in Rule 4.17(i) to (iv), and any correction thereof under Rule 26*ter*.1, which was received by the International Bureau before the expiration of the time limit under Rule 26*ter*.1, provided that the designated Office has informed the International Bureau that the applicable national law requires the furnishing of documents or evidence relating to the matter to which the declaration relates.

(b) Such communication shall be effected promptly after the international publication of the international application and, in any event, by the end of the 19th month after the priority date. Any amendment received by the International Bureau within the time limit under Rule 46.1 which was not included in the communication shall be communicated promptly to the designated Offices by the International Bureau, and the latter shall notify the applicant accordingly.

(c) The International Bureau shall send a notice to the applicant indicating the designated Offices to which the communication has been effected and the date of such communication. Such notice shall be sent on the same day as the communication. Each designated Office shall be informed, separately from the communication, about the sending and the date of mailing of the notice. The notice shall be accepted by all designated Offices as conclusive evidence that the communication has duly taken place on the date specified in the notice.

(d) Each designated Office shall, when it so requires, receive the international search reports and the declarations referred to in Article 17(2)(a) also in the translation referred to in Rule 45.1.

(e) Where any designated Office has waived the requirement provided under Article 20, the copies of the documents which otherwise would have been sent to that Office shall, at the request of that Office or the applicant, be sent to the applicant at the time of the notice referred to in paragraph (c).

47.2 Copies

(a) The copies required for communication shall be prepared by the International Bureau.

(b) They shall be on sheets of A4 size.

(c) Except to the extent that any designated Office notifies the International Bureau otherwise, copies of the pamphlet under Rule 48 may be used for the purposes of the communication of the international application under Article 20.

47.3 Languages

(a) The international application communicated under Article 20 shall be in the language in which it is published.

(b) Where the language in which the international application is published is different from the language in which it was filed, the International Bureau shall furnish to any designated Office, upon the request of that Office, a copy of that application in the language in which it was filed.

47.4 Express Request Under Article 23(2)

Where the applicant makes an express request to a designated Office under Article 23(2) before the communication provided for in Article 20 has taken place, the International Bureau shall, upon request of the applicant or the designated Office, promptly effect that communication to that Office.

Rule 48 International Publication

48.1 Form

(a) The international application shall be published in the form of a pamphlet.

(b) The particulars regarding the form of the pamphlet and the method of reproduction shall be governed by the Administrative Instructions.

48.2 Contents

(a) The pamphlet shall contain:

(i) a standardized front page,

(ii) the description,

(iii) the claims,

(iv) the drawings, if any,

(v) subject to paragraph (g), the international search report or the declaration under Article 17(2)(a); the publication of the international search report in the pamphlet shall, however, not be required to include the part of the international search report which contains only matter referred to in Rule 43 already appearing on the front page of the pamphlet,

(vi) any statement filed under Article 19(1), unless the International Bureau finds that the statement does not comply with the provisions of Rule 46.4,

(vii) any request for rectification referred to in the third sentence of Rule 91.1(f),

(viii) the relevant data from any indications in relation to deposited biological material furnished under Rule 13*bis* separately from the description, together with an indication of the date on which the International Bureau received such indications,

(ix) any information concerning a priority claim considered not to have been made under Rule 26*bis*.2(b), the publication of which is requested under Rule 26*bis*.2(c),

(x) any declaration referred to in Rule 4.17(v), and any correction thereof under Rule 26*ter*.1, which was received by the International Bureau before the expiration of the time limit under Rule 26*ter*.1.

(b) Subject to paragraph (c), the front page shall include:

(i) data taken from the request sheet and such other data as are prescribed by the Administrative Instructions,

(ii) a figure or figures where the international application contains drawings, unless Rule 8.2(b) applies,

(iii) the abstract; if the abstract is both in English and in another language, the English text shall appear first,

(iv) an indication that the request contains any declaration referred to in Rule 4.17 which was received by the International Bureau before the expiration of the time limit under Rule 26*ter*.1.

(c) Where a declaration under Article 17(2)(a) has issued, the front page shall conspicuously refer to that fact and need include neither a drawing nor an abstract.

(d) The figure or figures referred to in paragraph (b)(ii) shall be selected as provided in Rule 8.2. Reproduction of such figure or figures on the front page may be in a reduced form.

(e) If there is not enough room on the front page for the totality of the abstract referred to in paragraph (b)(iii), the said abstract shall appear on the back of the front page. The same shall apply to the translation of the abstract when such translation is required to be published under Rule 48.3(c).

(f) If the claims have been amended under Article 19, the publication shall contain either the full text of the claims both as filed and as amended or the full text of the claims as filed and specify the amendments. Any statement referred to in Article 19(1) shall be included as well, unless the International Bureau finds that the statement does not comply with the provisions of Rule 46.4. The date of receipt of the amended claims by the International Bureau shall be indicated.

(g) If, at the time of the completion of the technical preparations for international publication, the international search report is not yet available (for example, because of publication on the request of the applicant as provided in Articles 21(2)(b) and 64(3)(c)(i)), the pamphlet shall contain, in place of the international search report, an indication to the effect that that report was not available and that either the pamphlet (then also including the international search report) will be republished or the international search report (when it becomes available) will be separately published.

(h) If, at the time of the completion of the technical preparations for international publication, the time limit for amending the claims under Article 19 has not expired, the pamphlet shall refer to that fact and indicate that, should the claims be amended under Article 19, then, promptly after such amendments, either the pamphlet (containing the claims as amended) will be republished or a statement reflecting all the amendments will be published. In the latter case, at least the front page and the claims shall be republished and, if a statement under Article 19(1) has been filed, that statement shall be published as well, unless the International Bureau finds that the statement does not comply with the provisions of Rule 46.4.

(i) The Administrative Instructions shall determine the cases in which the various alternatives referred to in paragraphs (g) and (h) shall apply. Such determination shall depend on the volume and complexity of the amendments and/or the volume of the international application and the cost factors.

48.3 Languages of Publication

(a) If the international application is filed in Chinese, English, French, German, Japanese, Russian or Spanish ("languages of publication"), that application shall be published in the language in which it was filed.

(a-*bis*) If the international application is not filed in a language of publication and a translation into a language of publication has been furnished under Rule 12.3, that application shall be published in the language of that translation.

(b) If the international application is filed in a language which is not a language of publication and no translation into a language of publication is required under Rule 12.3(a), that application shall be published in English translation. The translation shall be prepared under the responsibility of the International Searching Authority, which shall be obliged to have it ready in time to permit international publication by the prescribed date, or, where Article 64(3)(b) applies, to permit the communication under Article 20 by the end of the 19th month after the priority date. Notwithstanding Rule 16.1(a), the International Searching Authority may charge a fee for the translation to the applicant. The International Searching Authority shall give the applicant an opportunity to comment on the draft translation. The International Searching Authority shall fix a time limit reasonable under the circumstances of the case for such comments. If there is no time to take the comments of the applicant into account before the translation is communicated or if there is a difference of opinion between the applicant and the said Authority as to the correct translation, the applicant may send a copy of his comments, or what remains of them, to the International Bureau and each designated Office to which the translation was communicated. The International Bureau shall publish the relevant portions of the comments together with the translation of the International Searching Authority or subsequently to the publication of such translation.

(c) If the international application is published in a language other than English, the international search report to the extent that it is published under Rule 48.2(a)(v), or the declaration referred to in Article 17(2)(a), the title of the invention, the abstract and any text matter pertaining to the figure or figures accompanying the abstract shall be published both in that language and in English. The translations shall be prepared under the responsibility of the International Bureau.

48.4 Earlier Publication on the Applicant's Request

(a) Where the applicant asks for publication under Articles 21(2)(b) and 64(3)(c)(i) and the international search report, or the declaration referred to in Article 17(2)(a), is not yet available for publication together with the international application, the International Bureau shall collect a special publication fee whose amount shall be fixed in the Administrative Instructions.

(b) Publication under Articles 21(2)(b) and 64(3)(c)(i) shall be effected by the International Bureau promptly after the applicant has asked for it and, where a special fee is due under paragraph (a), after receipt of such fee.

48.5 Notification of National Publication

Where the publication of the international application by the International Bureau is governed by Article 64(3)(c)(ii), the national Office concerned shall, promptly after effecting the national publication referred to in the said provision, notify the International Bureau of the fact of such national publication.

48.6 Announcing of Certain Facts

(a) If any notification under Rule 29.1(a)(ii) reaches the International Bureau at a time later than that at which it was able to prevent the international publication of the international application, the International Bureau shall promptly publish a notice in the Gazette reproducing the essence of such notification.

(b) [*Deleted*]

(c) If the international application, the designation of any designated State or the priority claim is withdrawn under Rule 90*bis* after the technical preparations for international publication have been completed, notice of the withdrawal shall be published in the Gazette.

Rule 49 Copy, Translation and Fee Under Article 22

49.1 Notification

(a) Any Contracting State requiring the furnishing of a translation or the payment of a national fee, or both, under Article 22, shall notify the International Bureau of:

(i) the languages from which and the language into which it requires translation,

(ii) the amount of the national fee.

(a-*bis*) Any Contracting State not requiring the furnishing, under Article 22, by the applicant of a copy of the international application (even though the communication of the copy of the international application by the International Bureau under Rule 47 has not taken place by the expiration of the time limit applicable under Article 22) shall notify the International Bureau accordingly.

(a-*ter*) Any Contracting State which, pursuant to Article 24(2), maintains, if it is a designated State, the effect provided for in Article 11(3) even though a copy of the international application is not furnished by the applicant by the expiration of the time limit applicable under Article 22 shall notify the International Bureau accordingly.

(b) Any notification received by the International Bureau under paragraphs (a), (a-*bis*) or (a-*ter*) shall be promptly published by the International Bureau in the Gazette.

(c) If the requirements under paragraph (a) change later, such changes shall be notified by the Contracting State to the International Bureau and that Bureau shall promptly publish the notification in the Gazette. If the change means that translation is required into a language which, before the change, was not required, such change shall be effective only with respect to international applications filed later than two months after the publication of the notification in the Gazette. Otherwise, the effective date of any change shall be determined by the Contracting State.

49.2 Languages

The language into which translation may be required must be an official language of the designated Office. If there are several of such languages, no translation may be required if the international application is in one of them. If there are several official languages and a translation must be furnished, the applicant may choose any of those languages. Notwithstanding the foregoing provisions of this paragraph, if there are several official languages but the national law prescribes the use of one such language for foreigners, a translation into that language may be required.

49.3 Statements Under Article 19; Indications Under Rule 13*bis*.4

For the purposes of Article 22 and the present Rule, any statement made under Article 19(1) and any indication furnished under Rule 13*bis*.4 shall, subject to Rule 49.5(c) and (h), be considered part of the international application.

49.4 Use of National Form

No applicant shall be required to use a national form when performing the acts referred to in Article 22.

49.5 Contents of and Physical Requirements for the Translation

(a) For the purposes of Article 22, the translation of the international application shall contain the description (subject to paragraph (a-*bis*)), the claims, any text matter of the drawings and the abstract. If required by the designated Office, the translation shall also, subject to paragraphs (b), (c-*bis*) and (e),

(i) contain the request,

(ii) if the claims have been amended under Article 19, contain both the claims as filed and the claims as amended, and

(iii) be accompanied by a copy of the drawings.

(a-*bis*) No designated Office shall require the applicant to furnish to it a translation of any text matter contained in the sequence listing part of the description if such sequence listing part complies with Rule 12.1(d) and if the description complies with Rule 5.2(b).

(b) Any designated Office requiring the furnishing of a translation of the request shall furnish copies of the request form in the language of the translation free of charge to the applicants. The form and contents of the request form in the language of the translation shall not be different from those of the request under Rules 3 and 4; in particular, the request form in the language of the translation shall not ask for any information that is not in the request as filed. The use of the request form in the language of the translation shall be optional.

(c) Where the applicant did not furnish a translation of any statement made under Article 19(1), the designated Office may disregard such statement.

(c-*bis*) Where the applicant furnishes, to a designated Office which requires under paragraph (a)(ii) a translation of both the claims as filed and the claims as amended, only one of the required two translations, the designated Office may disregard the claims of which a translation has not been furnished or invite the applicant to furnish the missing translation within a time limit which shall be reasonable under the circumstances and shall be fixed in the invitation. Where the designated Office chooses to invite the applicant to furnish the missing translation and the latter is not furnished within the time limit fixed in the invitation, the designated Office may disregard those claims of which a translation has not been furnished or consider the international application withdrawn.

(d) If any drawing contains text matter, the translation of that text matter shall be furnished either in the form of a copy of the original drawing with the translation pasted on the original text matter or in the form of a drawing executed anew.

(e) Any designated Office requiring under paragraph (a) the furnishing of a copy of the drawings shall, where the applicant failed to furnish such copy within the time limit applicable under Article 22, invite the applicant to furnish such copy within a time limit which shall be reasonable under the circumstances and shall be fixed in the invitation.

(f) The expression "Fig." does not require translation into any language.

(g) Where any copy of the drawings or any drawing executed anew which has been furnished under paragraph (d) or (e) does not comply with the physical requirements referred to in Rule 11, the designated Office may invite the applicant to correct the defect within a time limit which shall be reasonable under the circumstances and shall be fixed in the invitation.

(h) Where the applicant did not furnish a translation of the abstract or of any indication furnished under Rule 13*bis*.4, the designated Office shall invite the applicant to furnish such translation, if it deems it to be necessary, within a time limit which shall be reasonable under the circumstances and shall be fixed in the invitation.

(i) Information on any requirement and practice of designated Offices under the second sentence of paragraph (a) shall be published by the International Bureau in the Gazette.

(j) No designated Office shall require that the translation of the international application comply with physical requirements other than those prescribed for the international application as filed.

(k) Where a title has been established by the International Searching Authority pursuant to Rule 37.2, the translation shall contain the title as established by that Authority.

(l) If, on July 12, 1991, paragraph (c-*bis*) or paragraph (k) is not compatible with the national law applied by the designated Office, the paragraph concerned shall not apply to that designated Office for as long as it continues not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by December 31, 1991. The information received shall be promptly published by the International Bureau in the Gazette.

50.1 Exercise of Faculty

(a) Any Contracting State allowing a time limit expiring later than the time limits provided for in Article 22(1) or (2) shall notify the International Bureau of the time limits so fixed.

(b) Any notification received by the International Bureau under paragraph (a) shall be promptly published by the International Bureau in the Gazette.

(c) Notifications concerning the shortening of the previously fixed time limit shall be effective in relation to international applications filed after the expiration of three months computed from the date on which the notification was published by the International Bureau.

(d) Notifications concerning the lengthening of the previously fixed time limit shall become effective upon publication by the International Bureau in the Gazette in respect of international applications pending at the time or filed after the date of such publication, or, if the Contracting State effecting the notification fixes some later date, as from the latter date.

Rule 51 Review by Designated Offices

51.1 Time Limit for Presenting the Request to Send Copies

The time limit referred to in Article 25(1)(c) shall be two months computed from the date of the notification sent to the applicant under Rules 20.7(i), 24.2(c), 29.1(a)(ii), or 29.1(b).

51.2 Copy of the Notice

Where the applicant, after having received a negative determination under Article 11(1), requests the International Bureau, under Article 25(1), to send copies of the file of the purported international application to any of the named Offices he has attempted to designate, he shall attach to his request a copy of the notice referred to in Rule 20.7(i).

51.3 Time Limit for Paying National Fee and Furnishing Translation

The time limit referred to in Article 25(2)(a) shall expire at the same time as the time limit prescribed in Rule 51.1.

Rule 51bis Certain National Requirements Allowed Under Article 27

51bis.1 Certain National Requirements Allowed

(a) Subject to Rule 51*bis*.2, the national law applicable by the designated Office may, in accordance with Article 27, require the applicant to furnish, in particular:

(i) any document relating to the identity of the inventor,

(ii) any document relating to the applicant's entitlement to apply for or be granted a patent,

(iii) any document containing any proof of the applicant's entitlement to claim priority of an earlier application where the applicant is not the applicant who filed the earlier application or where the applicant's name has changed since the date on which the earlier application was filed,

(iv) where the international application designates a State whose national law requires that national applications be filed by the inventor, any document containing an oath or declaration of inventorship,

(v) any evidence concerning non-prejudicial disclosures or exceptions to lack of novelty, such as disclosures resulting from abuse, disclosures at certain exhibitions and disclosures by the applicant during a certain period of time.

(b) The national law applicable by the designated Office may, in accordance with Article 27(7), require that

(i) the applicant be represented by an agent having the right to represent applicants before that Office and/or have an address in the designated State for the purpose of receiving notifications,

(ii) the agent, if any, representing the applicant be duly appointed by the applicant.

(c) The national law applicable by the designated Office may, in accordance with Article 27(1), require that the international application, the translation thereof or any document relating thereto be furnished in more than one copy.

(d) The national law applicable by the designated Office may, in accordance with Article 27(2)(ii), require that the translation of the international application furnished by the applicant under Article 22 be:

(i) verified by the applicant or the person having translated the international application in a statement to the effect that, to the best of his knowledge, the translation is complete and faithful;

(ii) certified by a public authority or sworn translator, but only where the designated Office may reasonably doubt the accuracy of the translation.

(e) The national law applicable by the designated Office may, in accordance with Article 27, require the applicant to furnish a translation of the priority document, provided that such a translation may only be required where the validity of the priority claim is relevant to the determination of whether the invention concerned is patentable.

(f) If, on March 17, 2000, the proviso in paragraph (e) is not compatible with the national law applied by the designated Office, that proviso shall not apply in respect of that Office for as long as that proviso continues not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by November 30, 2000. The information received shall be promptly published by the International Bureau in the Gazette.

51bis.2 Certain Circumstances in Which Documents or Evidence May Not Be Required

(a) Where the applicable national law does not require that national applications be filed by the inventor, the designated Office shall not, unless it may reasonably doubt the veracity of the indications or declaration concerned, require any document or evidence:

(i) relating to the identity of the inventor (Rule 51*bis*.1(a)(i)), if indications concerning the inventor, in accordance with Rule 4.6, are contained in the request or if a declaration as to the identity of the inventor, in accordance with Rule 4.17(i), is contained in the request or is submitted directly to the designated Office;

(ii) relating to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent (Rule 51*bis*.1(a)(ii)), if a declaration as to that matter, in accordance with Rule 4.17(ii), is contained in the request or is submitted directly to the designated Office;

(iii) relating to the applicant's entitlement, as at the international filing date, to claim priority of an earlier application (Rule 51*bis*.1(a)(iii)), if a declaration as to that matter, in accordance with Rule 4.17(iii), is contained in the request or is submitted directly to the designated Office.

(b) Where the applicable national law requires that national applications be filed by the inventor, the designated Office shall not, unless it may reasonably doubt the veracity of the indications or declaration concerned, require any document or evidence:

(i) relating to the identity of the inventor (Rule 51*bis*.1(a)(i)) (other than a document containing an oath or declaration of inventorship (Rule 51*bis*.1(a)(iv))), if indications concerning the inventor, in accordance with Rule 4.6, are contained in the request;

(ii) relating to the applicant's entitlement, as at the international filing date, to claim priority of an earlier application (Rule 51*bis*.1(a)(iii)), if a declaration as to that matter, in accordance with Rule 4.17(iii), is contained in the request or is submitted directly to the designated Office;

(iii) containing an oath or declaration of inventorship (Rule 51*bis*.1(a)(iv)), if a declaration of inventorship, in accordance with Rule 4.17(iv), is contained in the request or is submitted directly to the designated Office.

(c) If, on March 17, 2000, paragraph (a) is not compatible, in relation to any item of that paragraph, with the national law applied by the designated Office, paragraph (a) shall not apply in respect of that Office in relation to that item for as long as it continues not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by November 30, 2000. The information received shall be promptly published by the International Bureau in the Gazette.

51bis.3 Opportunity to Comply with National Requirements

(a) Where any of the requirements referred to in Rule 51*bis*.1(a)(i) to (iv) and (c) to (e), or any other requirement of the national law applicable by the designated Office which that Office may apply in accordance with Article 27(1) or (2), is not already fulfilled during the same period within which the requirements under Article 22 must be complied with, the designated Office shall invite the applicant to comply with the requirement within a time limit which shall not be less than two months from the date of the invitation. Each designated Office may require that the applicant pay a fee for complying with national requirements in response to the invitation.

(b) Where any requirement of the national law applicable by the designated Office which that Office may apply in accordance with Article 27(6) or (7) is not already fulfilled during the same period within which the requirements under Article 22 must be complied with, the applicant shall have an opportunity to comply with the requirement after the expiration of that period.

(c) If, on March 17, 2000, paragraph (a) is not compatible with the national law applied by the designated Office in relation to the time limit referred to in that paragraph, the said paragraph shall not apply in respect of that Office in relation to that time limit for as long as the said paragraph continues not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by November 30, 2000. The information received shall be promptly published by the International Bureau in the Gazette.

Rule 52 Amendment of the Claims, the Description, and the Drawings, Before Designated Offices

52.1 Time Limit

(a) In any designated State in which processing or examination starts without special request, the applicant shall, if he so wishes, exercise the right under Article 28 within one month from the fulfillment of the requirements under Article 22, provided that, if the communication under Rule 47.1 has not been effected by the expiration of the time limit applicable under Article 22, he shall exercise the said right not later than four months after such expiration date. In either case, the applicant may exercise the said right at any other time if so permitted by the national law of the said State.

(b) In any designated State in which the national law provides that examination starts only on special request, the time limit within or the time at which the applicant may exercise the right under Article 28 shall be the same as that provided by the national law for the filing of amendments in the case of the examination, on special request, of national applications, provided that such time limit shall not expire prior to, or such time shall not come before, the expiration of the time limit applicable under paragraph (a).

PART C --RULES CONCERNING CHAPTER II OF THE TREATY

Rule 53 The Demand

53.1 Form

(a) The demand shall be made on a printed form or be presented as a computer print-out. The particulars of the printed form and of a demand presented as a computer print-out shall be prescribed by the Administrative Instructions.

(b) Copies of printed demand forms shall be furnished free of charge by the receiving Office or by the International Preliminary Examining Authority.

53.2 Contents

(a) The demand shall contain:

(i) a petition,

(ii) indications concerning the applicant and the agent if there is an agent,

(iii) indications concerning the international application to which it relates,

(iv) election of States,

(v) where applicable, a statement concerning amendments.

(b) The demand shall be signed.

53.3 The Petition

The petition shall be to the following effect and shall preferably be worded as follows: "Demand under Article 31 of the Patent Cooperation Treaty: The undersigned requests that the international application specified below be the subject of international preliminary examination according to the Patent Cooperation Treaty."

53.4 The Applicant

As to the indications concerning the applicant, Rules 4.4 and 4.16 shall apply, and Rule 4.5 shall apply *mutatis mutandis*. Only applicants for the elected States are required to be indicated in the demand.

53.5 Agent or Common Representative

If an agent or common representative is appointed, the demand shall so indicate. Rules 4.4 and 4.16 shall apply, and Rule 4.7 shall apply *mutatis mutandis*.

53.6 Identification of the International Application

The international application shall be identified by the name and address of the applicant, the title of the invention, the international filing date (if known to the applicant) and the international application number or, where such number is not known to the applicant, the name of the receiving Office with which the international application was filed.

53.7 Election of States

(a) The demand shall indicate at least one Contracting State, from among those States which are designated and are bound by Chapter II of the Treaty ("eligible States"), as an elected State.

(b) Election of Contracting States in the demand shall be made:

(i) by an indication that all eligible States are elected, or,

(ii) in the case of States which have been designated for the purpose of obtaining national patents, by an indication of those eligible States that are elected, and, in the case of States which have been designated for the purpose of obtaining a regional patent, by an indication of the regional patent concerned together with either an indication that all eligible States party to the regional patent treaty concerned are elected or an indication of those among the said States that are elected.

53.8 Signature

(a) Subject to paragraph (b), the demand shall be signed by the applicant or, if there is more than one applicant, by all applicants making the demand.

(b) Where two or more applicants file a demand which elects a State whose national law requires that national applications be filed by the inventor and where an applicant for that elected State who is an inventor refused to sign the demand or could not be found or reached after diligent effort, the demand need not be signed by that applicant ("the applicant concerned") if it is signed by at least one applicant and

(i) a statement is furnished explaining, to the satisfaction of the International Preliminary Examining Authority, the lack of signature of the applicant concerned, or

(ii) the applicant concerned did not sign the request but the requirements of Rule 4.15(b) were complied with.

53.9 Statement Concerning Amendments

(a) If amendments under Article 19 have been made, the statement concerning amendments shall indicate whether, for the purposes of the international preliminary examination, the applicant wishes those amendments

(i) to be taken into account, in which case a copy of the amendments shall preferably be submitted with the demand, or

(ii) to be considered as reversed by an amendment under Article 34.

(b) If no amendments under Article 19 have been made and the time limit for filing such amendments has not expired, the statement may indicate that the applicant wishes the start of the international preliminary examination to be postponed in accordance with Rule 69.1(d).

(c) If any amendments under Article 34 are submitted with the demand, the statement shall so indicate.

Rule 54 The Applicant Entitled to Make a Demand

54.1 Residence and Nationality

(a) Subject to the provisions of paragraph (b), the residence or nationality of the applicant shall, for the purposes of Article 31(2), be determined according to Rule 18.1(a) and (b).

(b) The International Preliminary Examining Authority shall, in the circumstances specified in the Administrative Instructions, request the receiving Office or, where the international application was filed with the International Bureau as receiving Office, the national Office of, or acting for, the Contracting State concerned to decide the question whether the applicant is a resident or national of the Contracting State of which he claims to be a resident or national. The International Preliminary Examining Authority shall inform the applicant of any such request. The applicant shall have an opportunity to submit arguments directly to the Office concerned. The Office concerned shall decide the said question promptly.

54.2 Right to Make a Demand

The right to make a demand under Article 31(2) shall exist if the applicant making the demand or, if there are two or more applicants, at least one of them is a resident or national of a Contracting State bound by Chapter II and the international application has been filed with a receiving Office of or acting for a Contracting State bound by Chapter II.

54.3 International Applications Filed with the International Bureau as Receiving Office

Where the international application is filed with the International Bureau as receiving Office under Rule 19.1(a)(iii), the International Bureau shall, for the purposes of Article 31(2)(a), be considered to be acting for the Contracting State of which the applicant is a resident or national.

54.4 Applicant Not Entitled to Make a Demand

If the applicant does not have the right to make a demand or, in the case of two or more applicants, if none of them has the right to make a demand under Rule 54.2, the demand shall be considered not to have been submitted.

Rule 55 Languages (International Preliminary Examination)

55.1 Language of Demand

The demand shall be in the language of the international application or, if the international application has been filed in a language other than the language in which it is published, in the language of publication. However, if a translation of the international application is required under Rule 55.2, the demand shall be in the language of that translation.

55.2 Translation of International Application

(a) Where neither the language in which the international application is filed nor the language in which the international application is published is accepted by the International Preliminary Examining Authority that is to carry out the international preliminary examination, the applicant shall, subject to paragraph (b), furnish with the demand a translation of the international application into a language which is both:

(i) a language accepted by that Authority, and

(ii) a language of publication.

(b) Where a translation of the international application into a language referred to in paragraph (a) was transmitted to the International Searching Authority under Rule 23.1(b) and the International Preliminary Examining Authority is part of the same national Office or intergovernmental organization as the International Searching Authority, the applicant need not furnish a translation under paragraph (a). In such a case, unless the applicant furnishes a translation under paragraph (a), the international preliminary examination shall be carried out on the basis of the translation transmitted under Rule 23.1(b).

(c) If the requirement of paragraph (a) is not complied with and paragraph (b) does not apply, the International Preliminary Examining Authority shall invite the applicant to furnish the required translation within a time limit which shall be reasonable under the circumstances. That time limit shall not be less than one month from the date of the invitation. It may be extended by the International Preliminary Examining Authority at any time before a decision is taken.

(d) If the applicant complies with the invitation within the time limit under paragraph (c), the said requirement shall be considered to have been complied with. If the applicant fails to do so, the demand shall be considered not to have been submitted and the International Preliminary Examining Authority shall so declare.

55.3 Translation of Amendments

(a) Where a translation of the international application is required under Rule 55.2, any amendments which are referred to in the statement concerning amendments under Rule 53.9 and which the applicant wishes to be taken into account for the purposes of the international preliminary examination, and any amendments under Article 19 which are to be taken into account under Rule 66.1(c), shall be in the language of that translation. Where such amendments have been or are filed in another language, a translation shall also be furnished.

(b) Where the required translation of an amendment referred to in paragraph (a) is not furnished, the International Preliminary Examining Authority shall invite the applicant to furnish the missing translation within a time limit which

shall be reasonable under the circumstances. That time limit shall not be less than one month from the date of the invitation. It may be extended by the International Preliminary Examining Authority at any time before a decision is taken.

(c) If the applicant fails to comply with the invitation within the time limit under paragraph (b), the amendment shall not be taken into account for the purposes of the international preliminary examination.

Rule 56 Later Elections

56.1 Elections Submitted Later than the Demand

(a) The election of States subsequent to the submission of the demand ("later election") shall be effected by a notice submitted to the International Bureau. The notice shall identify the international application and the demand, and shall include an indication as referred to in Rule 53.7(b)(ii).

(b) Subject to paragraph (c), the notice referred to in paragraph (a) shall be signed by the applicant for the elected States concerned or, if there is more than one applicant for those States, by all of them.

(c) Where two or more applicants file a notice effecting a later election of a State whose national law requires that national applications be filed by the inventor and where an applicant for that elected State who is an inventor refused to sign the notice or could not be found or reached after diligent effort, the notice need not be signed by that applicant ("the applicant concerned") if it is signed by at least one applicant and

(i) a statement is furnished explaining, to the satisfaction of the International Bureau, the lack of signature of the applicant concerned, or

(ii) the applicant concerned did not sign the request but the requirements of Rule 4.15(b) were complied with, or did not sign the demand but the requirements of Rule 53.8(b) were complied with.

(d) An applicant for a State elected by a later election need not have been indicated as an applicant in the demand.

(e) If a notice effecting a later election is submitted after the expiration of 19 months from the priority date, the International Bureau shall notify the applicant that the election does not have the effect provided for under Article 39(1)(a) and that the acts referred to in Article 22 must be performed in respect of the elected Office concerned within the time limit applicable under Article 22.

(f) If, notwithstanding paragraph (a), a notice effecting a later election is submitted by the applicant to the International Preliminary Examining Authority rather than the International Bureau, that Authority shall mark the date of receipt on the notice and transmit it promptly to the International Bureau. The notice shall be considered to have been submitted to the International Bureau on the date marked.

56.2 Identification of the International Application

The international application shall be identified as provided in Rule 53.6.

56.3 Identification of the Demand

The demand shall be identified by the date on which it was submitted and by the name of the International Preliminary Examining Authority to which it was submitted.

56.4 Form of Later Elections

The notice effecting the later election shall preferably be worded as follows: "In relation to the international application filed with _____ on _____ under No. _____ by _____ (applicant) (and the demand for international preliminary examination submitted on _____ to _____), the undersigned elects the following additional State(s) under Article 31 of the Patent Cooperation Treaty: ..."

56.5 Language of Later Elections

The later election shall be in the language of the demand.

Rule 57 The Handling Fee

57.1 Requirement to Pay

Each demand for international preliminary examination shall be subject to the payment of a fee for the benefit of the International Bureau ("handling fee") to be collected by the International Preliminary Examining Authority to which the demand is submitted.

57.2 Amount

(a) The amount of the handling fee is as set out in the Schedule of Fees.

(b) [*Deleted*]

(c) The handling fee shall be payable in the currency or one of the currencies prescribed by the International Preliminary Examining Authority ("prescribed currency"), it being understood that, when transferred by that Authority to the International Bureau, it shall be freely convertible into Swiss currency. The amount of the handling fee shall be established, in each prescribed currency, for each International Preliminary Examining Authority which prescribes the payment of the handling fee in any currency other than Swiss currency, by the Director General after consultation with the Office with which consultation takes place under Rule 15.2(b) in relation to that currency, or, if there is no such Office, with the Authority which prescribes payment in that currency. The amount so established shall be the equivalent, in round figures, of the amount in Swiss currency set out in the Schedule of Fees. It shall be notified by the International Bureau to each International Preliminary Examining Authority prescribing payment in that prescribed currency and shall be published in the Gazette.

(d) Where the amount of the handling fee set out in the Schedule of Fees is changed, the corresponding amounts in the prescribed currencies shall be applied from the same date as the amount set out in the amended Schedule of Fees.

(e) Where the exchange rate between Swiss currency and any prescribed currency becomes different from the exchange rate last applied, the Director General shall establish the new amount in the prescribed currency according to directives given by the Assembly. The newly established amount shall become applicable two months after its publication in the Gazette, provided that the interested International Preliminary Examining Authority and the Director General may agree on a date falling during the said two-month period in which case the said amount shall become applicable for that Authority from that date.

57.3 Time Limit for Payment; Amount Payable

The handling fee shall be paid within one month from the date on which the demand was submitted, provided that, where the demand was transmitted to the International Preliminary Examining Authority under Rule 59.3, the handling fee shall be paid within one month from the date of receipt by that Authority. The amount payable shall be the amount applicable on that date of submittal or date of receipt, as the case may be. For the purposes of the preceding two sentences, Rule 59.3(e) shall not apply.

57.4 and 57.5 [Deleted]

57.6 Refund

The International Preliminary Examining Authority shall refund the handling fee to the applicant:

(i) if the demand is withdrawn before the demand has been sent by that Authority to the International Bureau, or

(ii) if the demand is considered, under Rule 54.4, not to have been submitted.

Rule 58 The Preliminary Examination Fee

58.1 Right to Ask for a Fee

(a) Each International Preliminary Examining Authority may require that the applicant pay a fee ("preliminary examination fee") for its own benefit for carrying out the international preliminary examination and for performing all other tasks entrusted to International Preliminary Examining Authorities under the Treaty and these Regulations.

(b) The amount of the preliminary examination fee, if any, shall be fixed by the International Preliminary Examining Authority. As to the time limit for payment of the preliminary examination fee and the amount payable, the provisions of Rule 57.3 relating to the handling fee shall apply *mutatis mutandis*.

(c) The preliminary examination fee shall be payable directly to the International Preliminary Examining Authority. Where that Authority is a national Office, it shall be payable in the currency prescribed by that Office, and where the Authority is an intergovernmental organization, it shall be payable in the currency of the State in which the intergovernmental organization is located or in any other currency which is freely convertible into the currency of the said State.

58.2 [Deleted]

58.3 Refund

The International Preliminary Examining Authorities shall inform the International Bureau of the extent, if any, to which, and the conditions, if any, under which, they will refund any amount paid as a preliminary examination fee where the demand is considered as if it had not been submitted, and the International Bureau shall promptly publish such information.

Rule 58bis Extension of Time Limits for Payment of Fees

58bis.1 Invitation by the International Preliminary Examining Authority

(a) Where, by the time they are due under Rules 57.3 and 58.1(b), the International Preliminary Examining Authority finds that no fees were paid to it, or that the amount paid to it is insufficient to cover the handling fee and the preliminary examination fee, the Authority shall invite the applicant to pay to it the amount required to cover those fees, together with, where applicable, the late payment fee under Rule 58*bis*.2, within a time limit of one month from the date of the invitation.

(b) Where the International Preliminary Examining Authority has sent an invitation under paragraph (a) and the applicant has not, within the time limit referred to in that paragraph, paid in full the amount due, including, where applicable, the late payment fee under Rule 58*bis*.2, the demand shall, subject to paragraph (c), be considered as if it had not been submitted and the International Preliminary Examining Authority shall so declare.

(c) Any payment received by the International Preliminary Examining Authority before that Authority sends the invitation under paragraph (a) shall be considered to have been received before the expiration of the time limit under Rule 57.3 or 58.1(b), as the case may be.

(d) Any payment received by the International Preliminary Examining Authority before that Authority proceeds under paragraph (b) shall be considered to have been received before the expiration of the time limit under paragraph (a).

58bis.2 Late Payment Fee

(a) The payment of fees in response to an invitation under Rule 58*bis*.1(a) may be subjected by the International Preliminary Examining Authority to the payment to it, for its own benefit, of a late payment fee. The amount of that fee shall be:

(i) 50% of the amount of unpaid fees which is specified in the invitation, or,

(ii) if the amount calculated under item (i) is less than the handling fee, an amount equal to the handling fee.

(b) The amount of the late payment fee shall not, however, exceed double the amount of the handling fee.

Rule 59 The Competent International Preliminary Examining Authority

59.1 Demands Under Article 31(2)(a)

(a) For demands made under Article 31(2)(a), each receiving Office of or acting for a Contracting State bound by the provisions of Chapter II shall, in accordance with the terms of the applicable agreement referred to in Article 32(2) and (3), inform the International Bureau which International Preliminary Examining Authority is or which International Preliminary Examining Authorities are competent for the international preliminary examination of international applications filed with it. The International Bureau shall promptly publish such information. Where several International Preliminary Examining Authorities are competent, the provisions of Rule 35.2 shall apply *mutatis mutandis*.

(b) Where the international application was filed with the International Bureau as receiving Office under Rule 19.1(a)(iii), Rule 35.3(a) and (b) shall apply *mutatis mutandis*. Paragraph (a) of this Rule shall not apply to the International Bureau as receiving Office under Rule 19.1(a)(iii).

59.2 Demands Under Article 31(2)(b)

As to demands made under Article 31(2)(b), the Assembly, in specifying the International Preliminary Examining Authority competent for international applications filed with a national Office which is an International Preliminary Examining Authority, shall give preference to that Authority; if the national Office is not an International Preliminary Examining Authority, the Assembly shall give preference to the International Preliminary Examining Authority recommended by that Office.

59.3 Transmittal of Demand to the Competent International Preliminary Examining Authority

(a) If the demand is submitted to a receiving Office, an International Searching Authority, or an International Preliminary Examining Authority which is not competent for the international preliminary examination of the international application, that Office or Authority shall mark the date of receipt on the demand and, unless it decides to proceed under paragraph (f), transmit the demand promptly to the International Bureau.

(b) If the demand is submitted to the International Bureau, the International Bureau shall mark the date of receipt on the demand.

(c) Where the demand is transmitted to the International Bureau under paragraph (a) or submitted to it under paragraph (b), the International Bureau shall promptly:

(i) if there is only one competent International Preliminary Examining Authority, transmit the demand to that Authority and inform the applicant accordingly, or

(ii) if two or more International Preliminary Examining Authorities are competent, invite the applicant to indicate, within 15 days from the date of the invitation or 19 months from the priority date, whichever is later, the competent International Preliminary Examining Authority to which the demand should be transmitted.

(d) Where an indication is furnished as required under paragraph (c)(ii), the International Bureau shall promptly transmit the demand to the competent International Preliminary Examining Authority indicated by the applicant. Where no indication is so furnished, the demand shall be considered not to have been submitted and the International Bureau shall so declare.

(e) Where the demand is transmitted to a competent International Preliminary Examining Authority under paragraph (c), it shall be considered to have been received on behalf of that Authority on the date marked on it under paragraph (a) or (b), as applicable, and the demand so transmitted shall be considered to have been received by that Authority on that date.

(f) Where an Office or Authority to which the demand is submitted under paragraph (a) decides to transmit that demand directly to the competent International Preliminary Examining Authority, paragraphs (c) to (e) shall apply *mutatis mutandis*.

Rule 60 Certain Defects in the Demand or Elections

60.1 Defects in the Demand

(a) If the demand does not comply with the requirements specified in Rules 53.1, 53.2(a)(i) to (iv), 53.2(b), 53.3 to 53.8 and 55.1, the International Preliminary Examining Authority shall invite the applicant to correct the defects within a time limit which shall be reasonable under the circumstances. That time limit shall not be less than one month from the date of the invitation. It may be extended by the International Preliminary Examining Authority at any time before a decision is taken.

(b) If the applicant complies with the invitation within the time limit under paragraph (a), the demand shall be considered as if it had been received on the actual filing date, provided that the demand as submitted contained at least one election and permitted the international application to be identified; otherwise, the demand shall be considered as if it had been received on the date on which the International Preliminary Examining Authority receives the correction.

(c) Subject to paragraph (d), if the applicant does not comply with the invitation within the time limit under paragraph (a), the demand shall be considered as if it had not been submitted and the International Preliminary Examining Authority shall so declare.

(d) Where, after the expiration of the time limit under paragraph (a), a signature required under Rule 53.8 or a prescribed indication is lacking in respect of an applicant for a certain elected State, the election of that State shall be considered as if it had not been made.

(e) If the defect is noticed by the International Bureau, it shall bring the defect to the attention of the International Preliminary Examining Authority, which shall then proceed as provided in paragraphs (a) to (d).

(f) If the demand does not contain a statement concerning amendments, the International Preliminary Examining Authority shall proceed as provided for in Rules 66.1 and 69.1(a) or (b).

(g) Where the statement concerning amendments contains an indication that amendments under Article 34 are submitted with the demand (Rule 53.9(c)) but no such amendments are, in fact, submitted, the International Preliminary Examining Authority shall invite the applicant to submit the amendments within a time limit fixed in the invitation and shall proceed as provided for in Rule 69.1(e).

60.2 Defects in Later Elections

(a) If the notice effecting a later election does not comply with the requirements of Rule 56, the International Bureau shall invite the applicant to correct the defects within a time limit which shall be reasonable under the circumstances. That time limit shall not be less than one month from the date of the invitation. It may be extended by the International Bureau at any time before a decision is taken.

(b) If the applicant complies with the invitation within the time limit under paragraph (a), the notice shall be considered as if it had been received on the actual filing date, provided that the notice as submitted contained at least one election and permitted the international application to be identified; otherwise, the notice shall be considered as if it had been received on the date on which the International Bureau receives the correction.

(c) Subject to paragraph (d), if the applicant does not comply with the invitation within the time limit under paragraph (a), the notice shall be considered as if it had not been submitted and the International Bureau shall so declare.

(d) Where, in respect of an applicant for a certain elected State, the signature required under Rule 56.1(b) and (c) or the name or address is lacking after the expiration of the time limit under paragraph (a), the later election of that State shall be considered as if it had not been made.

Rule 61 Notification of the Demand and Elections

61.1 Notification to the International Bureau and the Applicant

(a) The International Preliminary Examining Authority shall indicate on the demand the date of receipt or, where applicable, the date referred to in Rule 60.1(b). The International Preliminary Examining Authority shall promptly either send the demand to the International Bureau and keep a copy in its files or send a copy to the International Bureau and keep the demand in its files.

(b) The International Preliminary Examining Authority shall promptly notify the applicant of the date of receipt of the demand. Where the demand has been considered under Rules 54.4, 55.2(d), 58*bis*.1(b) or 60.1(c) as if it had not been submitted or where an election has been considered under Rule 60.1(d) as if it had not been made, the International Preliminary Examining Authority shall notify the applicant and the International Bureau accordingly.

(c) The International Bureau shall promptly notify the applicant of the receipt, and the date of receipt, of any notice effecting a later election. That date shall be the actual date of receipt by the International Bureau or, where applicable, the date referred to in Rule 56.1(f) or 60.2(b). Where the notice has been considered under Rule 60.2(c) as if it had not been submitted or where a later election has been considered under Rule 60.2(d) as if it had not been made, the International Bureau shall notify the applicant accordingly.

61.2 Notification to the Elected Offices

(a) The notification provided for in Article 31(7) shall be effected by the International Bureau.

(b) The notification shall indicate the number and filing date of the international application, the name of the applicant, the filing date of the application whose priority is claimed (where priority is claimed), the date of receipt by the International Preliminary Examining Authority of the demand, and--in the case of a later election--the date of receipt of the notice effecting the later election. The latter date shall be the actual date of receipt by the International Bureau or, where applicable, the date referred to in Rule 56.1(f) or 60.2(b).

(c) The notification shall be sent to the elected Office together with the communication provided for in Article 20. Elections effected after such communication shall be notified promptly after they have been made.

(d) Where the applicant makes an express request to an elected Office under Article 40(2) before the communication provided for in Article 20 has taken place, the International Bureau shall, upon request of the applicant or the elected Office, promptly effect that communication to that Office.

61.3 Information for the Applicant

The International Bureau shall inform the applicant in writing of the notification referred to in Rule 61.2 and of the elected Offices notified under Article 31(7).

61.4 Publication in the Gazette

Where a demand has been filed before the expiration of 19 months from the priority date, the International Bureau shall, promptly after the filing of the demand but not before the international publication of the international application, publish in the Gazette information on the demand and the elected States concerned, as provided in the Administrative Instructions.

Rule 62 Copy of Amendments Under Article 19 for the International Preliminary Examining Authority

62.1 Amendments Made Before the Demand Is Filed

Upon receipt of a demand, or a copy thereof, from the International Preliminary Examining Authority, the International Bureau shall promptly transmit a copy of any amendments under Article 19, and any statement referred to in that Article, to that Authority, unless that Authority has indicated that it has already received such a copy.

62.2 Amendments Made After the Demand Is Filed

If, at the time of filing any amendments under Article 19, a demand has already been submitted, the applicant shall preferably, at the same time as he files the amendments with the International Bureau, also file with the International Preliminary Examining Authority a copy of such amendments and any statement referred to in that Article. In any case, the International Bureau shall promptly transmit a copy of such amendments and statement to that Authority.

Rule 63 Minimum Requirements for International Preliminary Examining Authorities

63.1 Definition of Minimum Requirements

The minimum requirements referred to in Article 32(3) shall be the following:

(i) the national Office or intergovernmental organization must have at least 100 full-time employees with sufficient technical qualifications to carry out examinations;

(ii) that Office or organization must have at its ready disposal at least the minimum documentation referred to in Rule 34, properly arranged for examination purposes;

(iii) that Office or organization must have a staff which is capable of examining in the required technical fields and which has the language facilities to understand at least those languages in which the minimum documentation referred to in Rule 34 is written or is translated.

Rule 64 Prior Art for International Preliminary Examination

64.1 Prior Art

(a) For the purposes of Article 33(2) and (3), everything made available to the public anywhere in the world by means of written disclosure (including drawings and other illustrations) shall be considered prior art provided that such making available occurred prior to the relevant date.

(b) For the purposes of paragraph (a), the relevant date will be:

(i) subject to item (ii), the international filing date of the international application under international preliminary examination;

(ii) where the international application under international preliminary examination validly claims the priority of an earlier application, the filing date of such earlier application.

64.2 Non-Written Disclosures

In cases where the making available to the public occurred by means of an oral disclosure, use, exhibition or other non-written means ("non-written disclosure") before the relevant date as defined in Rule 64.1(b) and the date of such non-written disclosure is indicated in a written disclosure which has been made available to the public on a date which is the same as, or later than, the relevant date, the non-written disclosure shall not be considered part of the prior art for the purposes of Article 33(2) and (3). Nevertheless, the international preliminary examination report shall call attention to such non-written disclosure in the manner provided for in Rule 70.9.

64.3 Certain Published Documents

In cases where any application or any patent which would constitute prior art for the purposes of Article 33(2) and (3) had it been published prior to the relevant date referred to in Rule 64.1 was published on a date which is the same as, or later than, the relevant date but was filed earlier than the relevant date or claimed the priority of an earlier application which had been filed prior to the relevant date, such published application or patent shall not be considered part of the prior art for the purposes of Article 33(2) and (3). Nevertheless, the international preliminary examination report shall call attention to such application or patent in the manner provided for in Rule 70.10.

Rule 65 Inventive Step or Non-Obviousness

65.1 Approach to Prior Art

For the purposes of Article 33(3), the international preliminary examination shall take into consideration the relation of any particular claim to the prior art as a whole. It shall take into consideration the claim's relation not only to individual documents or parts thereof taken separately but also its relation to combinations of such documents or parts of documents, where such combinations are obvious to a person skilled in the art.

65.2 Relevant Date

For the purposes of Article 33(3), the relevant date for the consideration of inventive step (non-obviousness) is the date prescribed in Rule 64.1.

Rule 66 Procedure Before the International Preliminary Examining Authority

66.1 Basis of the International Preliminary Examination

(a) Subject to paragraphs (b) to (d), the international preliminary examination shall be based on the international application as filed.

(b) The applicant may submit amendments under Article 34 at the time of filing the demand or, subject to Rule 66.4*bis*, until the international preliminary examination report is established.

(c) Any amendments under Article 19 made before the demand was filed shall be taken into account for the purposes of the international preliminary examination unless superseded, or considered as reversed, by an amendment under Article 34.

(d) Any amendments under Article 19 made after the demand was filed and any amendments under Article 34 submitted to the International Preliminary Examining Authority shall, subject to Rule 66.4*bis*, be taken into account for the purposes of the international preliminary examination.

(e) Claims relating to inventions in respect of which no international search report has been established need not be the subject of international preliminary examination.

66.2 First Written Opinion of the International Preliminary Examining Authority

(a) If the International Preliminary Examining Authority

(i) considers that any of the situations referred to in Article 34(4) exists,

(ii) considers that the international preliminary examination report should be negative in respect of any of the claims because the invention claimed therein does not appear to be novel, does not appear to involve an inventive step (does not appear to be non-obvious), or does not appear to be industrially applicable,

(iii) notices that there is some defect in the form or contents of the international application under the Treaty or these Regulations,

(iv) considers that any amendment goes beyond the disclosure in the international application as filed,

(v) wishes to accompany the international preliminary examination report by observations on the clarity of the claims, the description, and the drawings, or the question whether the claims are fully supported by the description,

(vi) considers that a claim relates to an invention in respect of which no international search report has been established and has decided not to carry out the international preliminary examination in respect of that claim, or

(vii) considers that a nucleotide and/or amino acid sequence listing is not available to it in such a form that a meaningful international preliminary examination can be carried out,

the said Authority shall notify the applicant accordingly in writing. Where the national law of the national Office acting as International Preliminary Examining Authority does not allow multiple dependent claims to be drafted in a manner different from that provided for in the second and third sentences of Rule 6.4(a), the International Preliminary Examining Authority may, in case of failure to use that manner of claiming, apply Article 34(4)(b). In such case, it shall notify the applicant accordingly in writing.

(b) The notification shall fully state the reasons for the opinion of the International Preliminary Examining Authority.

(c) The notification shall invite the applicant to submit a written reply together, where appropriate, with amendments.

(d) The notification shall fix a time limit for the reply. The time limit shall be reasonable under the circumstances. It shall normally be two months after the date of notification. In no case shall it be shorter than one month after the said date. It shall be at least two months after the said date where the international search report is transmitted at the same time as the notification. It shall not be more than three months after the said date but may be extended if the applicant so requests before its expiration.

66.3 Formal Response to the International Preliminary Examining Authority

(a) The applicant may respond to the invitation referred to in Rule 66.2(c) of the International Preliminary Examining Authority by making amendments or--if he disagrees with the opinion of that Authority--by submitting arguments, as the case may be, or do both.

(b) Any response shall be submitted directly to the International Preliminary Examining Authority.

66.4 Additional Opportunity for Submitting Amendments or Arguments

(a) If the International Preliminary Examining Authority wishes to issue one or more additional written opinions, it may do so, and Rules 66.2 and 66.3 shall apply.

(b) On the request of the applicant, the International Preliminary Examining Authority may give him one or more additional opportunities to submit amendments or arguments.

66.4bis Consideration of Amendments and Arguments

Amendments or arguments need not be taken into account by the International Preliminary Examining Authority for the purposes of a written opinion or the international preliminary examination report if they are received after that Authority has begun to draw up that opinion or report.

66.5 Amendment

Any change, other than the rectification of obvious errors, in the claims, the description, or the drawings, including cancellation of claims, omission of passages in the description, or omission of certain drawings, shall be considered an amendment.

66.6 Informal Communications with the Applicant

The International Preliminary Examining Authority may, at any time, communicate informally, over the telephone, in writing, or through personal interviews, with the applicant. The said Authority shall, at its discretion, decide whether it wishes to grant more than one personal interview if so requested by the applicant, or whether it wishes to reply to any informal written communication from the applicant.

66.7 Priority Document

(a) If the International Preliminary Examining Authority needs a copy of the application whose priority is claimed in the international application, the International Bureau shall, on request, promptly furnish such copy. If that copy is not furnished to the International Preliminary Examining Authority because the applicant failed to comply with the requirements of Rule 17.1, the international preliminary examination report may be established as if the priority had not been claimed.

(b) If the application whose priority is claimed in the international application is in a language other than the language or one of the languages of the International Preliminary Examining Authority, that Authority may, where the validity of the priority claim is relevant for the formulation of the opinion referred to in Article 33(1), invite the applicant to furnish a translation in the said language or one of the said languages within two months from the date of the invitation. If the translation is not furnished within that time limit, the international preliminary examination report may be established as if the priority had not been claimed.

66.8 Form of Amendments

(a) Subject to paragraph (b), the applicant shall be required to submit a replacement sheet for every sheet of the international application which, on account of an amendment, differs from the sheet previously filed. The letter accompanying the replacement sheets shall draw attention to the differences between the replaced sheets and the replacement sheets and shall preferably also explain the reasons for the amendment.

(b) Where the amendment consists in the deletion of passages or in minor alterations or additions, the replacement sheet referred to in paragraph (a) may be a copy of the relevant sheet of the international application containing the alterations or additions, provided that the clarity and direct reproducibility of that sheet are not adversely affected. To the extent that any amendment results in the cancellation of an entire sheet, that amendment shall be communicated in a letter which shall preferably also explain the reasons for the amendment.

66.9 Language of Amendments

(a) Subject to paragraphs (b) and (c), if the international application has been filed in a language other than the language in which it is published, any amendment, as well as any letter referred to in Rule 66.8, shall be submitted in the language of publication.

(b) If the international preliminary examination is carried out, pursuant to Rule 55.2, on the basis of a translation of the international application, any amendment, as well as any letter referred to in paragraph (a), shall be submitted in the language of that translation.

(c) Subject to Rule 55.3, if an amendment or letter is not submitted in a language as required under paragraph (a) or (b), the International Preliminary Examining Authority shall, if practicable having regard to the time limit for establishing the international preliminary examination report, invite the applicant to furnish the amendment or letter in the required language within a time limit which shall be reasonable under the circumstances.

(d) If the applicant fails to comply, within the time limit under paragraph (c), with the invitation to furnish an amendment in the required language, the amendment shall not be taken into account for the purposes of the international preliminary examination. If the applicant fails to comply, within the time limit under paragraph (c), with the invitation to furnish a letter referred to in paragraph (a) in the required language, the amendment concerned need not be taken into account for the purposes of the international preliminary examination.

Rule 67 Subject Matter Under Article 34(4)(a)(i)

67.1 Definition

No International Preliminary Examining Authority shall be required to carry out an international preliminary examination on an international application if, and to the extent to which, its subject matter is any of the following:

(i) scientific and mathematical theories,

(ii) plant or animal varieties or essentially biological processes for the production of plants and animals, other than microbiological processes and the products of such processes,

(iii) schemes, rules or methods of doing business, performing purely mental acts or playing games,

(iv) methods for treatment of the human or animal body by surgery or therapy, as well as diagnostic methods,

(v) mere presentations of information,

(vi) computer programs to the extent that the International Preliminary Examining Authority is not equipped to carry out an international preliminary examination concerning such programs.

Rule 68 Lack of Unity of Invention (International Preliminary Examination)

68.1 No Invitation to Restrict or Pay

Where the International Preliminary Examining Authority finds that the requirement of unity of invention is not complied with and chooses not to invite the applicant to restrict the claims or to pay additional fees, it shall proceed with the international preliminary examination, subject to Article 34(4)(b) and Rule 66.1(e), in respect of the entire international application, but shall indicate, in any written opinion and in the international preliminary examination report, that it considers that the requirement of unity of invention is not fulfilled and it shall specify the reasons therefor.

68.2 Invitation to Restrict or Pay

Where the International Preliminary Examining Authority finds that the requirement of unity of invention is not complied with and chooses to invite the applicant, at his option, to restrict the claims or to pay additional fees, it shall specify at least one possibility of restriction which, in the opinion of the International Preliminary Examining Authority, would be in compliance with the applicable requirement, and shall specify the amount of the additional fees and the reasons for which the international application is not considered as complying with the requirement of unity of invention. It shall, at the same time, fix a time limit, with regard to the circumstances of the case, for complying with the invitation; such time limit shall not be shorter than one month, and it shall not be longer than two months, from the date of the invitation.

68.3 Additional Fees

(a) The amount of the additional fee due for international preliminary examination under Article 34(3)(a) shall be determined by the competent International Preliminary Examining Authority.

(b) The additional fee due for international preliminary examination under Article 34(3)(a) shall be payable direct to the International Preliminary Examining Authority.

(c) Any applicant may pay the additional fee under protest, that is, accompanied by a reasoned statement to the effect that the international application complies with the requirement of unity of invention or that the amount of the required additional fee is excessive. Such protest shall be examined by a three-member board or other special instance of the International Preliminary Examining Authority, or any competent higher authority, which, to the extent that it finds the protest justified, shall order the total or partial reimbursement to the applicant of the additional fee. On the request of the applicant, the text of both the protest and the decision thereon shall be notified to the elected Offices as an annex to the international preliminary examination report.

(d) The three-member board, special instance or competent higher authority, referred to in paragraph (c), shall not comprise any person who made the decision which is the subject of the protest.

(e) Where the applicant has, under paragraph (c), paid an additional fee under protest, the International Preliminary Examining Authority may, after a prior review of the justification for the invitation to pay an additional fee, require that the applicant pay a fee for the examination of the protest ("protest fee"). The protest fee shall be paid within one month from the date of the notification to the applicant of the result of the review. If the protest fee is not so paid, the protest shall be considered withdrawn. The protest fee shall be refunded to the applicant where the three-member board, special instance or higher authority referred to in paragraph (c) finds that the protest was entirely justified.

68.4 Procedure in the Case of Insufficient Restriction of the Claims

If the applicant restricts the claims but not sufficiently to comply with the requirement of unity of invention, the International Preliminary Examining Authority shall proceed as provided in Article 34(3)(c).

68.5 Main Invention

In case of doubt which invention is the main invention for the purposes of Article 34(3)(c), the invention first mentioned in the claims shall be considered the main invention.

Rule 69 Start of and Time Limit for International Preliminary Examination

69.1 Start of International Preliminary Examination

(a) Subject to paragraphs (b) to (e), the International Preliminary Examining Authority shall start the international preliminary examination when it is in possession both of the demand and of either the international search report or a notice of the declaration by the International Searching Authority under Article 17(2)(a) that no international search report will be established.

(b) If the competent International Preliminary Examining Authority is part of the same national Office or intergovernmental organization as the competent International Searching Authority, the international preliminary examination may, if the International Preliminary Examining Authority so wishes and subject to paragraph (d), start at the same time as the international search.

(c) Where the statement concerning amendments contains an indication that amendments under Article 19 are to be taken into account (Rule 53.9(a)(i)), the International Preliminary Examining Authority shall not start the international preliminary examination before it has received a copy of the amendments concerned.

(d) Where the statement concerning amendments contains an indication that the start of the international preliminary examination is to be postponed (Rule 53.9(b)), the International Preliminary Examining Authority shall not start the international preliminary examination before 137

(i) it has received a copy of any amendments made under Article 19,

(ii) it has received a notice from the applicant that he does not wish to make amendments under Article 19, or

(iii) the expiration of 20 months from the priority date,

whichever occurs first.

(e) Where the statement concerning amendments contains an indication that amendments under Article 34 are submitted with the demand (Rule 53.9(c)) but no such amendments are, in fact, submitted, the International Preliminary Examining Authority shall not start the international preliminary examination before it has received the amendments or before the time limit fixed in the invitation referred to in Rule 60.1(g) has expired, whichever occurs first.

69.2 Time Limit for International Preliminary Examination

The time limit for establishing the international preliminary examination report shall be:

(i) 28 months from the priority date, or

(ii) eight months from the date of payment of the fees referred to in Rules 57.1 and 58.1(a), or

(iii) eight months from the date of receipt by the International Preliminary Examining Authority of the translation furnished under Rule 55.2,

whichever expires last.

Rule 70 The International Preliminary Examination Report

70.1 Definition

For the purposes of this Rule, "report" shall mean international preliminary examination report.

70.2 Basis of the Report

(a) If the claims have been amended, the report shall issue on the claims as amended.

(b) If, pursuant to Rule 66.7(a) or (b), the report is established as if the priority had not been claimed, the report shall so indicate.

(c) If the International Preliminary Examining Authority considers that any amendment goes beyond the disclosure in the international application as filed, the report shall be established as if such amendment had not been made, and the report shall so indicate. It shall also indicate the reasons why it considers that the amendment goes beyond the said disclosure.

(d) Where claims relate to inventions in respect of which no international search report has been established and have therefore not been the subject of international preliminary examination, the international preliminary examination report shall so indicate.

70.3 Identifications

The report shall identify the International Preliminary Examining Authority which established it by indicating the name of such Authority, and the international application by indicating the international application number, the name of the applicant, and the international filing date.

70.4 Dates

The report shall indicate:

(i) the date on which the demand was submitted, and

(ii) the date of the report; that date shall be the date on which the report is completed.

70.5 Classification

(a) The report shall repeat the classification given under Rule 43.3 if the International Preliminary Examining Authority agrees with such classification.

(b) Otherwise, the International Preliminary Examining Authority shall indicate in the report the classification, at least according to the International Patent Classification, which it considers correct.

70.6 Statement Under Article 35(2)

(a) The statement referred to in Article 35(2) shall consist of the words "YES" or "NO," or their equivalent in the language of the report, or some appropriate sign provided for in the Administrative Instructions, and shall be accompanied by the citations, explanations and observations, if any, referred to in the last sentence of Article 35(2).

(b) If any of the three criteria referred to in Article 35(2) (that is, novelty, inventive step (non-obviousness), industrial applicability) is not satisfied, the statement shall be negative. If, in such a case, any of the criteria, taken separately, is satisfied, the report shall specify the criterion or criteria so satisfied.

70.7 Citations Under Article 35(2)

(a) The report shall cite the documents considered to be relevant for supporting the statements made under Article 35(2), whether or not such documents are cited in the international search report. Documents cited in the international search report need only be cited in the report when they are considered by the International Preliminary Examining Authority to be relevant.

(b) The provisions of Rule 43.5(b) and (e) shall apply also to the report.

70.8 Explanations Under Article 35(2)

The Administrative Instructions shall contain guidelines for cases in which the explanations referred to in Article 35(2) should or should not be given and the form of such explanations. Such guidelines shall be based on the following principles:

(i) explanations shall be given whenever the statement in relation to any claim is negative;

(ii) explanations shall be given whenever the statement is positive unless the reason for citing any document is easy to imagine on the basis of consultation of the cited document;

(iii) generally, explanations shall be given if the case provided for in the last sentence of Rule 70.6(b) obtains.

70.9 Non-Written Disclosures

Any non-written disclosure referred to in the report by virtue of Rule 64.2 shall be mentioned by indicating its kind, the date on which the written disclosure referring to the non-written disclosure was made available to the public, and the date on which the non-written disclosure occurred in public.

70.10 Certain Published Documents

Any published application or any patent referred to in the report by virtue of Rule 64.3 shall be mentioned as such and shall be accompanied by an indication of its date of publication, of its filing date, and its claimed priority date (if any). In respect of the priority date of any such document, the report may indicate that, in the opinion of the International Preliminary Examining Authority, such date has not been validly claimed.

70.11 Mention of Amendments

If, before the International Preliminary Examining Authority, amendments have been made, this fact shall be indicated in the report. Where any amendment has resulted in the cancellation of an entire sheet, this fact shall also be specified in the report.

70.12 Mention of Certain Defects and Other Matters

If the International Preliminary Examining Authority considers that, at the time it prepares the report:

(i) the international application contains any of the defects referred to in Rule 66.2(a)(iii), it shall include this opinion and the reasons therefor in the report;

(ii) the international application calls for any of the observations referred to in Rule 66.2(a)(v), it may include this opinion in the report and, if it does, it shall also indicate in the report the reasons for such opinion;

(iii) any of the situations referred to in Article 34(4) exists, it shall state this opinion and the reasons therefor in the report;

(iv) a nucleotide and/or amino acid sequence listing is not available to it in such a form that a meaningful international preliminary examination can be carried out, it shall so state in the report.

70.13 Remarks Concerning Unity of Invention

If the applicant paid additional fees for the international preliminary examination, or if the international application or the international preliminary examination was restricted under Article 34(3), the report shall so indicate. Furthermore, where the international preliminary examination was carried out on restricted claims (Article 34(3)(a)), or on the main invention only (Article 34(3)(c)), the report shall indicate what parts of the international application were and what parts were not the subject of international preliminary examination. The report shall contain the indications provided for in Rule 68.1, where the International Preliminary Examining Authority chose not to invite the applicant to restrict the claims or to pay additional fees.

70.14 Authorized Officer

The report shall indicate the name of the officer of the International Preliminary Examining Authority responsible for that report.

70.15 Form

The physical requirements as to the form of the report shall be prescribed by the Administrative Instructions.

70.16 Annexes to the Report

Each replacement sheet under Rule 66.8(a) or (b), each replacement sheet containing amendments under Article 19 and each replacement sheet containing rectifications of obvious errors authorized under Rule 91.1(e)(iii) shall, unless superseded by later replacement sheets or amendments resulting in the cancellation of entire sheets under Rule 66.8(b), be annexed to the report. Amendments under Article 19 which have been considered as reversed by an amendment under Article 34 and letters under Rule 66.8 shall not be annexed.

70.17 Languages of the Report and the Annexes

The report and any annex shall be in the language in which the international application to which they relate is published, or, if the international preliminary examination is carried out, pursuant to Rule 55.2, on the basis of a translation of the international application, in the language of that translation.

Rule 71 Transmittal of the International Preliminary Examination Report

71.1 Recipients

The International Preliminary Examining Authority shall, on the same day, transmit one copy of the international preliminary examination report and its annexes, if any, to the International Bureau, and one copy to the applicant.

71.2 Copies of Cited Documents

(a) The request under Article 36(4) may be presented any time during seven years from the international filing date of the international application to which the report relates.

(b) The International Preliminary Examining Authority may require that the party (applicant or elected Office) presenting the request pay to it the cost of preparing and mailing the copies. The level of the cost of preparing copies shall be provided for in the agreements referred to in Article 32(2) between the International Preliminary Examining Authorities and the International Bureau.

(c) [*Deleted*]

(d) Any International Preliminary Examining Authority may perform the obligations referred to in paragraphs (a) and (b) through another agency responsible to it.

Rule 72 Translation of the International Preliminary Examination Report

72.1 Languages

(a) Any elected State may require that the international preliminary examination report, established in any language other than the official language, or one of the official languages, of its national Office, be translated into English.

(b) Any such requirement shall be notified to the International Bureau, which shall promptly publish it in the Gazette.

72.2 Copy of Translation for the Applicant

The International Bureau shall transmit a copy of the translation referred to in Rule 72.1(a) of the international preliminary examination report to the applicant at the same time as it communicates such translation to the interested elected Office or Offices.

72.3 Observations on the Translation

The applicant may make written observations on what, in his opinion, are errors of translation in the translation of the international preliminary examination report and shall send a copy of any such observations to each of the interested elected Offices and a copy to the International Bureau.

Rule 73 Communication of the International Preliminary Examination Report

73.1 Preparation of Copies

The International Bureau shall prepare the copies of the documents to be communicated under Article 36(3)(a).

73.2 Time Limit for Communication

The communication provided for in Article 36(3)(a) shall be effected as promptly as possible but not earlier than the communication under Article 20.

Rule 74 Translations of Annexes of the International Preliminary Examination Report and Transmittal Thereof

74.1 Contents of Translation and Time Limit for Transmittal Thereof

(a) Where the furnishing of a translation of the international application is required by the elected Office under Article 39(1), the applicant shall, within the time limit applicable under Article 39(1), transmit a translation of any

replacement sheet referred to in Rule 70.16 which is annexed to the international preliminary examination report, unless such sheet is in the language of the required translation of the international application. The same time limit shall apply where the furnishing of a translation of the international application to the elected Office must, because of a declaration made under Article 64(2)(a)(i), be effected within the time limit applicable under Article 22.

(b) Where the furnishing under Article 39(1) of a translation of the international application is not required by the elected Office, that Office may require the applicant to furnish, within the time limit applicable under that Article, a translation into the language in which the international application was published of any replacement sheet referred to in Rule 70.16 which is annexed to the international preliminary examination report and is not in that language.

Rule 75 [Deleted]

Rule 76 Copy, Translation and Fee Under Article 39(1); Translation of Priority Document

76.1, 76.2 and 76.3 [Deleted]

76.4 Time Limit for Translation of Priority Document

The applicant shall not be required to furnish to any elected Office a translation of the priority document before the expiration of the applicable time limit under Article 39.

76.5 Application of Rules 22.1(g), 49 and 51*bis*

Rules 22.1(g), 49 and 51*bis* shall apply, provided that:

(i) any reference in the said Rules to the designated Office or to the designated State shall be construed as a reference to the elected Office or to the elected State, respectively;

(ii) any reference in the said Rules to Article 22 or Article 24(2) shall be construed as a reference to Article 39(1) or Article 39(3), respectively;

(iii) the words "international applications filed" in Rule 49.1(c) shall be replaced by the words "a demand submitted;"

(iv) for the purposes of Article 39(1), where an international preliminary examination report has been established, a translation of any amendment under Article 19 shall only be required if that amendment is annexed to that report.

76.6 Transitional Provision

If, on July 12, 1991, Rule 76.5(iv) is not compatible with the national law applied by the elected Office in respect of claims amended under Article 19, Rule 76.5(iv) shall not apply in that respect to that elected Office for as long as it continues not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by December 31, 1991. The information received shall be promptly published by the International Bureau in the Gazette.

Rule 77 Faculty Under Article 39(1)(b)

77.1 Exercise of Faculty

(a) Any Contracting State allowing a time limit expiring later than the time limit provided for in Article 39(1)(a) shall notify the International Bureau of the time limit so fixed.

(b) Any notification received by the International Bureau under paragraph (a) shall be promptly published by the International Bureau in the Gazette.

(c) Notifications concerning the shortening of the previously fixed time limit shall be effective in relation to demands submitted after the expiration of three months computed from the date on which the notification was published by the International Bureau.

(d) Notifications concerning the lengthening of the previously fixed time limit shall become effective upon publication by the International Bureau in the Gazette in respect of demands pending at the time or submitted after the date of such publication, or, if the Contracting State effecting the notification fixes some later date, as from the latter date.

Rule 78 Amendment of the Claims, the Description, and the Drawings, Before Elected Offices

78.1 Time Limit Where Election Is Effected Prior to Expiration of 19 Months from Priority Date

(a) Where the election of any Contracting State is effected prior to the expiration of the 19th month from the priority date, the applicant shall, if he so wishes, exercise the right under Article 41 to amend the claims, the description and the drawings, before the elected Office concerned within one month from the fulfillment of the requirements under Article 39(1)(a), provided that, if the transmittal of the international preliminary examination report under Article 36(1) has not taken place by the expiration of the time limit applicable under Article 39, he shall exercise the said right not later than four months after such expiration date. In either case, the applicant may exercise the said right at any other time if so permitted by the national law of the said State.

(b) In any elected State in which the national law provides that examination starts only on special request, the national law may provide that the time limit within or the time at which the applicant may exercise the right under Article 41 shall, where the election of any Contracting State is effected prior to the expiration of the 19th month from the priority date, be the same as that provided by the national law for the filing of amendments in the case of the examination, on special request, of national applications, provided that such time limit shall not expire prior to, or such time shall not come before, the expiration of the time limit applicable under paragraph (a).

78.2 Time Limit Where Election Is Effected After Expiration of 19 Months from Priority Date

Where the election of any Contracting State has been effected after the expiration of the 19th month from the priority date and the applicant wishes to make amendments under Article 41, the time limit for making amendments under Article 28 shall apply.

78.3 Utility Models

The provisions of Rules 6.5 and 13.5 shall apply, *mutatis mutandis*, before elected Offices. If the election was made before the expiration of the 19th month from the priority date, the reference to the time limit applicable under Article 22 is replaced by a reference to the time limit applicable under Article 39.

PART D --RULES CONCERNING CHAPTER III OF THE TREATY

Rule 79 Calendar

79.1 Expressing Dates

Applicants, national Offices, receiving Offices, International Searching and Preliminary Examining Authorities, and the International Bureau, shall, for the purposes of the Treaty and the Regulations, express any date in terms of the Christian era and the Gregorian calendar, or, if they use other eras and calendars, they shall also express any date in terms of the Christian era and the Gregorian calendar.

Rule 80 Computation of Time Limits

80.1 Periods Expressed in Years

When a period is expressed as one year or a certain number of years, computation shall start on the day following the day on which the relevant event occurred, and the period shall expire in the relevant subsequent year in the month having the same name and on the day having the same number as the month and the day on which the said event occurred, provided that if the relevant subsequent month has no day with the same number the period shall expire on the last day of that month.

80.2 Periods Expressed in Months

When a period is expressed as one month or a certain number of months, computation shall start on the day following the day on which the relevant event occurred, and the period shall expire in the relevant subsequent month on the day which has the same number as the day on which the said event occurred, provided that if the relevant subsequent month has no day with the same number the period shall expire on the last day of that month.

80.3 Periods Expressed in Days

When a period is expressed as a certain number of days, computation shall start on the day following the day on which the relevant event occurred, and the period shall expire on the day on which the last day of the count has been reached.

80.4 Local Dates

(a) The date which is taken into consideration as the starting date of the computation of any period shall be the date which prevails in the locality at the time when the relevant event occurred.

(b) The date on which any period expires shall be the date which prevails in the locality in which the required document must be filed or the required fee must be paid.

80.5 Expiration on a Non-Working Day

If the expiration of any period during which any document or fee must reach a national Office or intergovernmental organization falls on a day on which such Office or organization is not open to the public for the purposes of the transaction of official business, or on which ordinary mail is not delivered in the locality in which such Office or organization is situated, the period shall expire on the next subsequent day on which neither of the said two circumstances exists.

80.6 Date of Documents

Where a period starts on the day of the date of a document or letter emanating from a national Office or intergovernmental organization, any interested party may prove that the said document or letter was mailed on a day later than the date it bears, in which case the date of actual mailing shall, for the purposes of computing the period, be considered to be the date on which the period starts. Irrespective of the date on which such a document or letter was mailed, if the applicant offers to the national Office or intergovernmental organization evidence which satisfies the national Office or intergovernmental organization that the document or letter was received more than seven days after the date it bears, the national Office or intergovernmental organization shall treat the period starting from the date of the document or letter as expiring later by an additional number of days which is equal to the number of days which the document or letter was received later than seven days after the date it bears.

80.7 End of Working Day

(a) A period expiring on a given day shall expire at the moment the national Office or intergovernmental organization with which the document must be filed or to which the fee must be paid closes for business on that day.

(b) Any Office or organization may depart from the provisions of paragraph (a) up to midnight on the relevant day.

Rule 81 Modification of Time Limits Fixed in the Treaty

81.1 Proposal

(a) Any Contracting State or the Director General may propose a modification under Article 47(2).

(b) Proposals made by a Contracting State shall be presented to the Director General.

81.2 Decision by the Assembly

(a) When the proposal is made to the Assembly, its text shall be sent by the Director General to all Contracting States at least two months in advance of that session of the Assembly whose agenda includes the proposal.

(b) During the discussion of the proposal in the Assembly, the proposal may be amended or consequential amendments proposed.

(c) The proposal shall be considered adopted if none of the Contracting States present at the time of voting votes against the proposal.

81.3 Voting by Correspondence

(a) When voting by correspondence is chosen, the proposal shall be included in a written communication from the Director General to the Contracting States, inviting them to express their vote in writing.

(b) The invitation shall fix the time limit within which the reply containing the vote expressed in writing must reach the International Bureau. That time limit shall not be less than three months from the date of the invitation.

(c) Replies must be either positive or negative. Proposals for amendments or mere observations shall not be regarded as votes.

(d) The proposal shall be considered adopted if none of the Contracting States opposes the amendment and if at least one-half of the Contracting States express either approval or indifference or abstention.

Rule 82 Irregularities in the Mail Service

82.1 Delay or Loss in Mail

(a) Any interested party may offer evidence that he has mailed the document or letter five days prior to the expiration of the time limit. Except in cases where surface mail normally arrives at its destination within two days of mailing, or where no airmail service is available, such evidence may be offered only if the mailing was by airmail. In any case, evidence may be offered only if the mailing was by mail registered by the postal authorities.

(b) If the mailing, in accordance with paragraph (a), of a document or letter is proven to the satisfaction of the national Office or intergovernmental organization which is the addressee, delay in arrival shall be excused, or, if the document or letter is lost in the mail, substitution for it of a new copy shall be permitted, provided that the interested party proves to the satisfaction of the said Office or organization that the document or letter offered in substitution is identical with the document or letter lost.

(c) In the cases provided for in paragraph (b), evidence of mailing within the prescribed time limit, and, where the document or letter was lost, the substitute document or letter as well as the evidence concerning its identity with the

document or letter lost shall be submitted within one month after the date on which the interested party noticed--or with due diligence should have noticed--the delay or the loss, and in no case later than six months after the expiration of the time limit applicable in the given case.

(d) Any national Office or intergovernmental organization which has notified the International Bureau that it will do so shall, where a delivery service other than the postal authorities is used to mail a document or letter, apply the provisions of paragraphs (a) to (c) as if the delivery service was a postal authority. In such a case, the last sentence of paragraph (a) shall not apply but evidence may be offered only if details of the mailing were recorded by the delivery service at the time of mailing. The notification may contain an indication that it applies only to mailings using specified delivery services or delivery services which satisfy specified criteria. The International Bureau shall publish the information so notified in the Gazette.

(e) Any national Office or intergovernmental organization may proceed under paragraph (d):

(i) even if, where applicable, the delivery service used was not one of those specified, or did not satisfy the criteria specified, in the relevant notification under paragraph (d), or

(ii) even if that Office or organization has not sent to the International Bureau a notification under paragraph (d).

82.2 Interruption in the Mail Service

(a) Any interested party may offer evidence that on any of the 10 days preceding the day of expiration of the time limit the postal service was interrupted on account of war, revolution, civil disorder, strike, natural calamity, or other like reason, in the locality where the interested party resides or has his place of business or is staying.

(b) If such circumstances are proven to the satisfaction of the national Office or intergovernmental organization which is the addressee, delay in arrival shall be excused, provided that the interested party proves to the satisfaction of the said Office or organization that he effected the mailing within five days after the mail service was resumed. The provisions of Rule 82.1(c) shall apply *mutatis mutandis*.

Rule 82bis Excuse by the Designated or Elected State of Delays in Meeting Certain Time Limits

82bis.1 Meaning of "Time Limit" in Article 48(2)

The reference to "any time limit" in Article 48(2) shall be construed as comprising a reference:

(i) to any time limit fixed in the Treaty or these Regulations;

(ii) to any time limit fixed by the receiving Office, the International Searching Authority, the International Preliminary Examining Authority or the International Bureau or applicable by the receiving Office under its national law;

(iii) to any time limit fixed by, or in the national law applicable by, the designated or elected Office, for the performance of any act by the applicant before that Office.

82bis.2 Reinstatement of Rights and Other Provisions to Which Article 48(2) Applies

The provisions of the national law which is referred to in Article 48(2) concerning the excusing, by the designated or elected State, of any delay in meeting any time limit are those provisions which provide for reinstatement of rights, restoration, *restitutio in integrum* or further processing in spite of non-compliance with a time limit, and any other provision providing for the extension of time limits or for excusing delays in meeting time limits.

Rule 82ter Rectification of Errors Made by the Receiving Office or by the International Bureau

82ter.1 Errors Concerning the International Filing Date and the Priority Claim

If the applicant proves to the satisfaction of any designated or elected Office that the international filing date is incorrect due to an error made by the receiving Office or that the priority claim has been erroneously considered by the receiving Office or the International Bureau not to have been made, and if the error is an error such that, had it been made by the designated or elected Office itself, that Office would rectify it under the national law or national practice, the said Office shall rectify the error and shall treat the international application as if it had been accorded the rectified international filing date or as if the priority claim had not been considered not to have been made.

Rule 83 Right to Practice Before International Authorities

83.1 Proof of Right

The International Bureau, the competent International Searching Authority, and the competent International Preliminary Examining Authority, may require the production of proof of the right to practice referred to in Article 49.

83.1bis Where the International Bureau Is the Receiving Office

(a) Any person who has the right to practice before the national Office of, or acting for, a Contracting State of which the applicant or, if there are two or more applicants, any of the applicants is a resident or national shall be entitled to practice in respect of the international application before the International Bureau in its capacity as receiving Office under Rule 19.1(a)(iii).

(b) Any person having the right to practice before the International Bureau in its capacity as receiving Office in respect of an international application shall be entitled to practice in respect of that application before the International Bureau in any other capacity and before the competent International Searching Authority and competent International Preliminary Examining Authority.

83.2 Information

(a) The national Office or the intergovernmental organization which the interested person is alleged to have a right to practice before shall, upon request, inform the International Bureau, the competent International Searching Authority, or the competent International Preliminary Examining Authority, whether such person has the right to practice before it.

(b) Such information shall be binding upon the International Bureau, the International Searching Authority, or the International Preliminary Examining Authority, as the case may be.

PART E --RULES CONCERNING CHAPTER V OF THE TREATY

Rule 84 Expenses of Delegations

84.1 Expenses Borne by Governments

The expenses of each Delegation participating in any organ established by or under the Treaty shall be borne by the Government which has appointed it.

Rule 85 Absence of Quorum in the Assembly

85.1 Voting by Correspondence

In the case provided for in Article 53(5)(b), the International Bureau shall communicate the decisions of the Assembly (other than those concerning the Assembly's own procedure) to the Contracting States which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of that period, the number of Contracting States having thus expressed their vote or abstention attains the number of Contracting States which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

Rule 86 The Gazette

86.1 Contents and Form

(a) The Gazette referred to in Article 55(4) shall contain:

(i) for each published international application, the data specified by the Administrative Instructions taken from the front page of the pamphlet published under Rule 48, the drawing (if any) appearing on the said front page, and the abstract,

(ii) the schedule of all fees payable to the receiving Offices, the International Bureau, and the International Searching and Preliminary Examining Authorities,

(iii) notices the publication of which is required under the Treaty or these Regulations,

(iv) information, if and to the extent furnished to the International Bureau by the designated or elected Offices, on the question whether the requirements provided for in Articles 22 or 39 have been complied with in respect of the international applications designating or electing the Office concerned,

(v) any other useful information prescribed by the Administrative Instructions, provided access to such information is not prohibited under the Treaty or these Regulations.

(b) The information referred to in paragraph (a) shall be made available in two forms:

(i) as a Gazette in paper form, which shall contain the data specified by the Administrative Instructions taken from the front page of the pamphlet published under Rule 48 ("bibliographic data") and the matters referred to in paragraph (a)(ii) to (v);

(ii) as a Gazette in electronic form, which shall contain the bibliographic data, the drawing (if any) appearing on the said front page, and the abstract.

86.2 Languages; Access to the Gazette

(a) The Gazette in paper form shall be published in a bilingual (English and French) edition. It shall also be published in editions in any other language, provided the cost of publication is assured through sales or subventions.

(b) The Assembly may order the publication of the Gazette in languages other than those referred to in paragraph (a).

(c) The Gazette in electronic form referred to in Rule 86.1(b)(ii) shall be made accessible, in English and French at the same time, by any electronic ways and means specified in the Administrative Instructions. The translations shall be ensured by the International Bureau in English and French. The International Bureau shall ensure that the making

accessible of the Gazette in electronic form shall be effected on, or as soon as possible after, the date of publication of the pamphlet containing the international application.

86.3 Frequency

The frequency of publication of the Gazette shall be determined by the Director General.

86.4 Sale

The subscription and other sale prices of the Gazette shall be determined by the Director General.

86.5 Title

The title of the Gazette shall be determined by the Director General.

86.6 Further Details

Further details concerning the Gazette may be provided for in the Administrative Instructions.

Rule 87 Copies of Publications

87.1 International Searching and Preliminary Examining Authorities

Any International Searching or Preliminary Examining Authority shall have the right to receive, free of charge, two copies of every published international application, of the Gazette, and of any other publication of general interest published by the International Bureau in connection with the Treaty or these Regulations.

87.2 National Offices

(a) Any national Office shall have the right to receive, free of charge, one copy of every published international application, of the Gazette, and of any other publication of general interest published by the International Bureau in connection with the Treaty or these Regulations.

(b) The publications referred to in paragraph (a) shall be sent on special request. If any publication is available in more than one language, the request shall specify the language or languages in which it is desired.

Rule 88 Amendment of the Regulations

88.1 Requirement of Unanimity

Amendment of the following provisions of these Regulations shall require that no State having the right to vote in the Assembly vote against the proposed amendment:

(i) Rule 14.1 (Transmittal Fee),

(ii) [*deleted*]

(iii) Rule 22.3 (Time Limit Under Article 12(3)),

(iv) Rule 33 (Relevant Prior Art for International Search),

(v) Rule 64 (Prior Art for International Preliminary Examination),

(vi) Rule 81 (Modification of Time Limits Fixed in the Treaty),

(vii) the present paragraph (i.e., Rule 88.1).

88.2 [Deleted]

88.3 Requirement of Absence of Opposition by Certain States

Amendment of the following provisions of these Regulations shall require that no State referred to in Article 58(3)(a)(ii) and having the right to vote in the Assembly vote against the proposed amendment:

(i) Rule 34 (Minimum Documentation),

(ii) Rule 39 (Subject Matter Under Article 17(2)(a)(i)),

(iii) Rule 67 (Subject Matter Under Article 34(4)(a)(i)),

(iv) the present paragraph (i.e., Rule 88.3).

88.4 Procedure

Any proposal for amending a provision referred to in Rules 88.1 or 88.3 shall, if the proposal is to be decided upon in the Assembly, be communicated to all Contracting States at least two months prior to the opening of that session of the Assembly which is called upon to make a decision on the proposal.

Rule 89 Administrative Instructions

89.1 Scope

(a) The Administrative Instructions shall contain provisions:

(i) concerning matters in respect of which these Regulations expressly refer to such Instructions,

(ii) concerning any details in respect of the application of these Regulations.

(b) The Administrative Instructions shall not be in conflict with the provisions of the Treaty, these Regulations, or any agreement concluded by the International Bureau with an International Searching Authority, or an International Preliminary Examining Authority.

89.2 Source

(a) The Administrative Instructions shall be drawn up and promulgated by the Director General after consultation with the receiving Offices and the International Searching and Preliminary Examining Authorities.

(b) They may be modified by the Director General after consultation with the Offices or Authorities which have a direct interest in the proposed modification.

(c) The Assembly may invite the Director General to modify the Administrative Instructions, and the Director General shall proceed accordingly.

89.3 Publication and Entry into Force

(a) The Administrative Instructions and any modification thereof shall be published in the Gazette.

(b) Each publication shall specify the date on which the published provisions come into effect. The dates may be different for different provisions, provided that no provision may be declared effective prior to its publication in the Gazette.

PART F --RULES CONCERNING SEVERAL CHAPTERS OF THE TREATY

Rule 89bis Filing, Processing and Transmission of International Applications and Other Documents in Electronic Form or by Electronic Means

89bis.1 International Applications

(a) International applications may, subject to paragraphs (b) to (e), be filed and processed in electronic form or by electronic means, in accordance with the Administrative Instructions, provided that any receiving Office shall permit the filing of international applications on paper.

(b) These Regulations shall apply *mutatis mutandis* to international applications filed in electronic form or by electronic means, subject to any special provisions of the Administrative Instructions.

(c) The Administrative Instructions shall set out the provisions and requirements in relation to the filing and processing of international applications filed, in whole or in part, in electronic form or by electronic means, including but not limited to, provisions and requirements in relation to acknowledgment of receipt, procedures relating to the according of an international filing date, physical requirements and the consequences of non-compliance with those requirements, signature of documents, means of authentication of documents and of the identity of parties communicating with Offices and authorities, and the operation of Article 12 in relation to the home copy, the record copy and the search copy, and may contain different provisions and requirements in relation to international applications filed in different languages.

(d) No national Office or intergovernmental organization shall be obliged to receive or process international applications filed in electronic form or by electronic means unless it has notified the International Bureau that it is prepared to do so in compliance with the applicable provisions of the Administrative Instructions. The International Bureau shall publish the information so notified in the Gazette.

(e) No receiving Office which has given the International Bureau a notification under paragraph (d) may refuse to process an international application filed in electronic form or by electronic means which complies with the applicable requirements under the Administrative Instructions.

89bis.2 Other Documents

Rule 89*bis*.1 shall apply *mutatis mutandis* to other documents and correspondence relating to international applications.

89bis.3 Transmittal Between Offices

Where the Treaty, these Regulations or the Administrative Instructions provide for documents, notifications, communications or correspondence to be transmitted by one national Office or intergovernmental organization to another, such transmittal may, where so agreed by both the sender and the receiver, be effected in electronic form or by electronic means.

Rule 89ter Copies in Electronic Form of Documents Filed on Paper

89ter.1 Copies in Electronic Form of Documents Filed on Paper

Any national Office or intergovernmental organization may provide that, where an international application or other document relating to an international application is filed on paper, a copy thereof in electronic form, in accordance with the Administrative Instructions, may be furnished by the applicant.

Rule 90 Agents and Common Representatives

90.1 Appointment as Agent

(a) A person having the right to practice before the national Office with which the international application is filed or, where the international application is filed with the International Bureau, having the right to practice in respect of the international application before the International Bureau as receiving Office may be appointed by the applicant as his agent to represent him before the receiving Office, the International Bureau, the International Searching Authority and the International Preliminary Examining Authority.

(b) A person having the right to practice before the national Office or intergovernmental organization which acts as the International Searching Authority may be appointed by the applicant as his agent to represent him specifically before that Authority.

(c) A person having the right to practice before the national Office or intergovernmental organization which acts as the International Preliminary Examining Authority may be appointed by the applicant as his agent to represent him specifically before that Authority.

(d) An agent appointed under paragraph (a) may, unless otherwise indicated in the document appointing him, appoint one or more sub-agents to represent the applicant as the applicant's agent:

(i) before the receiving Office, the International Bureau, the International Searching Authority and the International Preliminary Examining Authority, provided that any person so appointed as sub-agent has the right to practice before the national Office with which the international application was filed or to practice in respect of the international application before the International Bureau as receiving Office, as the case may be;

(ii) specifically before the International Searching Authority or the International Preliminary Examining Authority, provided that any person so appointed as sub-agent has the right to practice before the national Office or intergovernmental organization which acts as the International Searching Authority or International Preliminary Examining Authority, as the case may be.

90.2 Common Representative

(a) Where there are two or more applicants and the applicants have not appointed an agent representing all of them (a "common agent") under Rule 90.1(a), one of the applicants who is entitled to file an international application according to Article 9 may be appointed by the other applicants as their common representative.

(b) Where there are two or more applicants and all the applicants have not appointed a common agent under Rule 90.1(a) or a common representative under paragraph (a), the applicant first named in the request who is entitled according to Rule 19.1 to file an international application with the receiving Office shall be considered to be the common representative of all the applicants.

90.3 Effects of Acts by or in Relation to Agents and Common Representatives

(a) Any act by or in relation to an agent shall have the effect of an act by or in relation to the applicant or applicants concerned.

(b) If there are two or more agents representing the same applicant or applicants, any act by or in relation to any of those agents shall have the effect of an act by or in relation to the said applicant or applicants.

(c) Subject to Rule 90*bis*.5(a), second sentence, any act by or in relation to a common representative or his agent shall have the effect of an act by or in relation to all the applicants.

90.4 Manner of Appointment of Agent or Common Representative

(a) The appointment of an agent shall be effected by the applicant signing the request, the demand or a separate power of attorney. Where there are two or more applicants, the appointment of a common agent or common representative shall be effected by each applicant signing, at his choice, the request, the demand or a separate power of attorney.

(b) Subject to Rule 90.5, a separate power of attorney shall be submitted to either the receiving Office or the International Bureau, provided that, where a power of attorney appoints an agent under Rule 90.1(b), (c) or (d)(ii), it

shall be submitted to the International Searching Authority or the International Preliminary Examining Authority, as the case may be.

(c) If the separate power of attorney is not signed, or if the required separate power of attorney is missing, or if the indication of the name or address of the appointed person does not comply with Rule 4.4, the power of attorney shall be considered non-existent unless the defect is corrected.

90.5 General Power of Attorney

(a) Appointment of an agent in relation to a particular international application may be effected by referring in the request, the demand or a separate notice to an existing separate power of attorney appointing that agent to represent the applicant in relation to any international application which may be filed by that applicant (i.e., a "general power of attorney"), provided that:

(i) the general power of attorney has been deposited in accordance with paragraph (b), and

(ii) a copy of it is attached to the request, the demand or the separate notice, as the case may be; that copy need not be signed.

(b) The general power of attorney shall be deposited with the receiving Office, provided that, where it appoints an agent under Rule 90.1(b), (c) or (d)(ii), it shall be deposited with the International Searching Authority or the International Preliminary Examining Authority, as the case may be.

90.6 Revocation and Renunciation

(a) Any appointment of an agent or common representative may be revoked by the persons who made the appointment or by their successors in title, in which case any appointment of a sub-agent under Rule 90.1(d) by that agent shall also be considered as revoked. Any appointment of a sub-agent under Rule 90.1(d) may also be revoked by the applicant concerned.

(b) The appointment of an agent under Rule 90.1(a) shall, unless otherwise indicated, have the effect of revoking any earlier appointment of an agent made under that Rule.

(c) The appointment of a common representative shall, unless otherwise indicated, have the effect of revoking any earlier appointment of a common representative.

(d) An agent or a common representative may renounce his appointment by a notification signed by him.

(e) Rule 90.4(b) and (c) shall apply, *mutatis mutandis*, to a document containing a revocation or renunciation under this Rule.

Rule 90bis Withdrawals

90bis.1 Withdrawal of the International Application

(a) The applicant may withdraw the international application at any time prior to the expiration of 20 months from the priority date or, where Article 39(1) applies, prior to the expiration of 30 months from the priority date.

(b) Withdrawal shall be effective on receipt of a notice addressed by the applicant, at his option, to the International Bureau, to the receiving Office or, where Article 39(1) applies, to the International Preliminary Examining Authority.

(c) No international publication of the international application shall be effected if the notice of withdrawal sent by the applicant or transmitted by the receiving Office or the International Preliminary Examining Authority reaches the International Bureau before the technical preparations for international publication have been completed.

90bis.2 Withdrawal of Designations

(a) The applicant may withdraw the designation of any designated State at any time prior to the expiration of 20 months from the priority date or, where Article 39(1) applies in respect of that State, prior to the expiration of 30 months from the priority date. Withdrawal of the designation of a State which has been elected shall entail withdrawal of the corresponding election under Rule 90*bis*.4.

(b) Where a State has been designated for the purpose of obtaining both a national patent and a regional patent, withdrawal of the designation of that State shall be taken to mean withdrawal of only the designation for the purpose of obtaining a national patent, except where otherwise indicated.

(c) Withdrawal of the designations of all designated States shall be treated as withdrawal of the international application under Rule 90*bis*.1.

(d) Withdrawal shall be effective on receipt of a notice addressed by the applicant, at his option, to the International Bureau, to the receiving Office or, where Article 39(1) applies, to the International Preliminary Examining Authority.

(e) No international publication of the designation shall be effected if the notice of withdrawal sent by the applicant or transmitted by the receiving Office or the International Preliminary Examining Authority reaches the International Bureau before the technical preparations for international publication have been completed.

90bis.3 Withdrawal of Priority Claims

(a) The applicant may withdraw a priority claim, made in the international application under Article 8(1), at any time prior to the expiration of 20 months from the priority date or, where Article 39(1) applies, 30 months from the priority date.

(b) Where the international application contains more than one priority claim, the applicant may exercise the right provided for in paragraph (a) in respect of one or more or all of the priority claims.

(c) Withdrawal shall be effective on receipt of a notice addressed by the applicant, at his option, to the International Bureau, to the receiving Office or, where Article 39(1) applies, to the International Preliminary Examining Authority.

(d) Where the withdrawal of a priority claim causes a change in the priority date, any time limit which is computed from the original priority date and which has not already expired shall, subject to paragraph (e), be computed from the priority date resulting from that change.

(e) In the case of the time limit referred to in Article 21(2)(a), the International Bureau may nevertheless proceed with the international publication on the basis of the said time limit as computed from the original priority date if the notice of withdrawal sent by the applicant or transmitted by the receiving Office or the International Preliminary Examining Authority reaches the International Bureau after the completion of the technical preparations for international publication.

90bis.4 Withdrawal of the Demand, or of Elections

(a) The applicant may withdraw the demand or any or all elections at any time prior to the expiration of 30 months from the priority date.

(b) Withdrawal shall be effective upon receipt of a notice addressed by the applicant to the International Bureau.

(c) If the notice of withdrawal is submitted by the applicant to the International Preliminary Examining Authority, that Authority shall mark the date of receipt on the notice and transmit it promptly to the International Bureau. The notice shall be considered to have been submitted to the International Bureau on the date marked.

90bis.5 Signature

(a) Any notice of withdrawal referred to in Rules 90*bis*.1 to 90*bis*.4 shall, subject to paragraph (b), be signed by the applicant. Where one of the applicants is considered to be the common representative under Rule 90.2(b), such notice shall, subject to paragraph (b), require the signature of all the applicants.

(b) Where two or more applicants file an international application which designates a State whose national law requires that national applications be filed by the inventor and where an applicant for that designated State who is an inventor could not be found or reached after diligent effort, a notice of withdrawal referred to in Rules 90*bis*.1 to 90*bis*.4 need not be signed by that applicant ("the applicant concerned") if it is signed by at least one applicant and

(i) a statement is furnished explaining, to the satisfaction of the receiving Office, the International Bureau or the International Preliminary Examining Authority, as the case may be, the lack of signature of the applicant concerned, or

(ii) in the case of a notice of withdrawal referred to in Rule 90*bis*.1(b), 90*bis*.2(d) or 90*bis*.3(c), the applicant concerned did not sign the request but the requirements of Rule 4.15(b) were complied with, or

(iii) in the case of a notice of withdrawal referred to in Rule 90*bis*.4(b), the applicant concerned did not sign the demand but the requirements of Rule 53.8(b) were complied with, or did not sign the later election concerned but the requirements of Rule 56.1(c) were complied with.

90bis.6 Effect of Withdrawal

(a) Withdrawal under Rule 90*bis* of the international application, any designation, any priority claim, the demand or any election shall have no effect in any designated or elected Office where the processing or examination of the international application has already started under Article 23(2) or Article 40(2).

(b) Where the international application is withdrawn under Rule 90*bis*.1, the international processing of the international application shall be discontinued.

(c) Where the demand or all elections are withdrawn under Rule 90*bis*.4, the processing of the international application by the International Preliminary Examining Authority shall be discontinued.

90bis.7 Faculty Under Article 37(4)(b)

(a) Any Contracting State whose national law provides for what is described in the second part of Article 37(4)(b) shall notify the International Bureau in writing.

(b) The notification referred to in paragraph (a) shall be promptly published by the International Bureau in the Gazette, and shall have effect in respect of international applications filed more than one month after the date of such publication.

Rule 91 Obvious Errors in Documents

91.1 Rectification

(a) Subject to paragraphs (b) to (g-*quater*), obvious errors in the international application or other papers submitted by the applicant may be rectified.

(b) Errors which are due to the fact that something other than what was obviously intended was written in the international application or other paper shall be regarded as obvious errors. The rectification itself shall be obvious in the sense that anyone would immediately realize that nothing else could have been intended than what is offered as rectification.

(c) Omissions of entire elements or sheets of the international application, even if clearly resulting from inattention, at the stage, for example, of copying or assembling sheets, shall not be rectifiable.

(d) Rectification may be made on the request of the applicant. The authority having discovered what appears to be an obvious error may invite the applicant to present a request for rectification as provided in paragraphs (e) to (g-*quater*). Rule 26.4 shall apply *mutatis mutandis* to the manner in which rectifications shall be requested.

(e) No rectification shall be made except with the express authorization:

(i) of the receiving Office if the error is in the request,

(ii) of the International Searching Authority if the error is in any part of the international application other than the request or in any paper submitted to that Authority,

(iii) of the International Preliminary Examining Authority if the error is in any part of the international application other than the request or in any paper submitted to that Authority,

(iv) of the International Bureau if the error is in any paper, other than the international application or amendments or corrections to that application, submitted to the International Bureau.

(f) Any authority which authorizes or refuses any rectification shall promptly notify the applicant of the authorization or refusal and, in the case of refusal, of the reasons therefor. The authority which authorizes a rectification shall promptly notify the International Bureau accordingly. Where the authorization of the rectification was refused, the International Bureau shall, upon request made by the applicant prior to the time relevant under paragraph (g-*bis*), (g-*ter*) or (g-*quater*) and subject to the payment of a special fee whose amount shall be fixed in the Administrative Instructions, publish the request for rectification together with the international application. A copy of the request for rectification shall be included in the communication under Article 20 where a copy of the pamphlet is not used for that communication or where the international application is not published by virtue of Article 64(3).

(g) The authorization for rectification referred to in paragraph (e) shall, subject to paragraphs (g-*bis*), (g-*ter*) and (g-*quater*), be effective:

(i) where it is given by the receiving Office or by the International Searching Authority, if its notification to the International Bureau reaches that Bureau before the expiration of 17 months from the priority date;

(ii) where it is given by the International Preliminary Examining Authority, if it is given before the establishment of the international preliminary examination report;

(iii) where it is given by the International Bureau, if it is given before the expiration of 17 months from the priority date.

(g-*bis*) If the notification made under paragraph (g)(i) reaches the International Bureau, or if the rectification made under paragraph (g)(iii) is authorized by the International Bureau, after the expiration of 17 months from the priority date but before the technical preparations for international publication have been completed, the authorization shall be effective and the rectification shall be incorporated in the said publication.

(g-*ter*) Where the applicant has asked the International Bureau to publish his international application before the expiration of 18 months from the priority date, any notification made under paragraph (g)(i) must reach, and any rectification made under paragraph (g)(iii) must be authorized by, the International Bureau, in order for the authorization to be effective, not later than at the time of the completion of the technical preparations for international publication.

(g-*quater*) Where the international application is not published by virtue of Article 64(3), any notification made under paragraph (g)(i) must reach, and any rectification made under paragraph (g)(iii) must be authorized by, the International Bureau, in order for the authorization to be effective, not later than at the time of the communication of the international application under Article 20.

Rule 92 Correspondence

92.1 Need for Letter and for Signature

(a) Any paper submitted by the applicant in the course of the international procedure provided for in the Treaty and these Regulations, other than the international application itself, shall, if not itself in the form of a letter, be accompanied by a letter identifying the international application to which it relates. The letter shall be signed by the applicant.

(b) If the requirements provided for in paragraph (a) are not complied with, the applicant shall be informed as to the non-compliance and invited to remedy the omission within a time limit fixed in the invitation. The time limit so fixed shall be reasonable in the circumstances; even where the time limit so fixed expires later than the time limit applying to the furnishing of the paper (or even if the latter time limit has already expired), it shall not be less than 10 days and not more than one month from the mailing of the invitation. If the omission is remedied within the time limit fixed in the invitation, the omission shall be disregarded; otherwise, the applicant shall be informed that the paper has been disregarded.

(c) Where non-compliance with the requirements provided for in paragraph (a) has been overlooked and the paper taken into account in the international procedure, the non-compliance shall be disregarded.

92.2 Languages

(a) Subject to Rules 55.1 and 66.9 and to paragraph (b) of this Rule, any letter or document submitted by the applicant to the International Searching Authority or the International Preliminary Examining Authority shall be in the same language as the international application to which it relates. However, where a translation of the international application has been transmitted under Rule 23.1(b) or furnished under Rule 55.2, the language of such translation shall be used.

(b) Any letter from the applicant to the International Searching Authority or the International Preliminary Examining Authority may be in a language other than that of the international application, provided the said Authority authorizes the use of such language.

(c) [*Deleted*]

(d) Any letter from the applicant to the International Bureau shall be in English or French.

(e) Any letter or notification from the International Bureau to the applicant or to any national Office shall be in English or French.

92.3 Mailings by National Offices and Intergovernmental Organizations

Any document or letter emanating from or transmitted by a national Office or an intergovernmental organization and constituting an event from the date of which any time limit under the Treaty or these Regulations commences to run shall be sent by air mail, provided that surface mail may be used instead of air mail in cases where surface mail normally arrives at its destination within two days from mailing or where air mail service is not available.

92.4 Use of Telegraph, Teleprinter, Facsimile Machine, Etc.

(a) A document making up the international application, and any later document or correspondence relating thereto, may, notwithstanding the provisions of Rules 11.14 and 92.1(a), but subject to paragraph (h), be transmitted, to the extent feasible, by telegraph, teleprinter, facsimile machine or other like means of communication resulting in the filing of a printed or written document.

(b) A signature appearing on a document transmitted by facsimile machine shall be recognized for the purposes of the Treaty and these Regulations as a proper signature.

(c) Where the applicant has attempted to transmit a document by any of the means referred to in paragraph (a) but part or all of the received document is illegible or part of the document is not received, the document shall be treated as not having been received to the extent that the received document is illegible or that the attempted transmission failed. The national Office or intergovernmental organization shall promptly notify the applicant accordingly.

(d) Any national Office or intergovernmental organization may require that the original of any document transmitted by any of the means referred to in paragraph (a) and an accompanying letter identifying that earlier transmission be furnished within 14 days from the date of the transmission, provided that such requirement has been notified to the International Bureau and the International Bureau has published information thereon in the Gazette. The notification shall specify whether such requirement concerns all or only certain kinds of documents.

(e) Where the applicant fails to furnish the original of a document as required under paragraph (d), the national Office or intergovernmental organization concerned may, depending on the kind of document transmitted and having regard to Rules 11 and 26.3,

(i) waive the requirement under paragraph (d), or

(ii) invite the applicant to furnish, within a time limit which shall be reasonable under the circumstances and shall be fixed in the invitation, the original of the document transmitted, provided that, where the document transmitted contains defects, or shows that the original contains defects, in respect of which the national Office or intergovernmental organization may issue an invitation to correct, that Office or organization may issue such an invitation in addition to, or instead of, proceeding under item (i) or (ii).

(f) Where the furnishing of the original of a document is not required under paragraph (d) but the national Office or intergovernmental organization considers it necessary to receive the original of the said document, it may issue an invitation as provided for under paragraph (e)(ii).

(g) If the applicant fails to comply with an invitation under paragraph (e)(ii) or (f):

(i) where the document concerned is the international application, the latter shall be considered withdrawn and the receiving Office shall so declare;

(ii) where the document concerned is a document subsequent to the international application, the document shall be considered as not having been submitted.

(h) No national Office or intergovernmental organization shall be obliged to receive any document submitted by a means referred to in paragraph (a) unless it has notified the International Bureau that it is prepared to receive such a document by that means and the International Bureau has published information thereon in the Gazette.

Rule 92bis Recording of Changes in Certain Indications in the Request or the Demand

92bis.1 Recording of Changes by the International Bureau

(a) The International Bureau shall, on the request of the applicant or the receiving Office, record changes in the following indications appearing in the request or demand:

(i) person, name, residence, nationality or address of the applicant,

(ii) person, name or address of the agent, the common representative or the inventor.

(b) The International Bureau shall not record the requested change if the request for recording is received by it after the expiration:

(i) of the time limit referred to in Article 22(1), where Article 39(1) is not applicable with respect to any Contracting State;

(ii) of the time limit referred to in Article 39(1)(a), where Article 39(1) is applicable with respect to at least one Contracting State.

Rule 93 Keeping of Records and Files

93.1 The Receiving Office

Each receiving Office shall keep the records relating to each international application or purported international application, including the home copy, for at least 10 years from the international filing date or, where no international filing date is accorded, from the date of receipt.

93.2 The International Bureau

(a) The International Bureau shall keep the file, including the record copy, of any international application for at least 30 years from the date of receipt of the record copy.

(b) The basic records of the International Bureau shall be kept indefinitely.

93.3 The International Searching and Preliminary Examining Authorities

Each International Searching Authority and each International Preliminary Examining Authority shall keep the file of each international application it receives for at least 10 years from the international filing date.

93.4 Reproductions

For the purposes of this Rule, records, copies and files may be kept as photographic, electronic or other reproductions, provided that the reproductions are such that the obligations to keep records, copies and files under Rules 93.1 to 93.3 are met.

Rule 94 Access to Files *

94.1 Access to the File Held by the International Bureau

(a) At the request of the applicant or any person authorized by the applicant, the International Bureau shall furnish, subject to reimbursement of the cost of the service, copies of any document contained in its file.

(b) The International Bureau shall, at the request of any person but not before the international publication of the international application and subject to Article 38, furnish, subject to the reimbursement of the cost of the service, copies of any document contained in its file.

94.2 Access to the File Held by the International Preliminary Examining Authority

At the request of the applicant or any person authorized by the applicant, or, once the international preliminary examination report has been established, of any elected Office, the International Preliminary Examining Authority shall furnish, subject to reimbursement of the cost of the service, copies of any document contained in its file.

94.3 Access to the File Held by the Elected Office

If the national law applicable by any elected Office allows access by third parties to the file of a national application, that Office may allow access to any documents relating to the international application, including any document relating to the international preliminary examination, contained in its file, to the same extent as provided by the national law for access to the file of a national application, but not before the international publication of the international application. The furnishing of copies of documents may be subject to reimbursement of the cost of the service.

*. *Editor's Note:* Rule 94 as in force from July 1, 1998, applies only in respect of international applications filed on or after that date. Rule 94 as in force until that date continues to apply after that date in respect of international applications filed before that date. The text of Rule 94 as in force until July 1, 1998, is reproduced below:**"Rule 94 Furnishing of Copies by the International Bureau and**

the International Preliminary Examining Authority94.1 *Obligation to Furnish*At the request of the applicant or any person authorized by the applicant, the International Bureau and the International Preliminary Examining Authority shall furnish, subject to reimbursement of the cost of the service, copies of any document contained in the file of the applicant's international application or purported international application."

Rule 95 Availability of Translations

95.1 Furnishing of Copies of Translations

(a) At the request of the International Bureau, any designated or elected Office shall provide it with a copy of the translation of the international application furnished by the applicant to that Office.

(b) The International Bureau may, upon request and subject to reimbursement of the cost, furnish to any person copies of the translations received under paragraph (a).

Rule 96 The Schedule of Fees

96.1 Schedule of Fees Annexed to Regulations

The amounts of the fees referred to in Rules 15 and 57 shall be expressed in Swiss currency. They shall be specified in the Schedule of Fees which is annexed to these Regulations and forms an integral part thereof.

SCHEDULE OF FEES

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