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FINAL REPORT

**INTELLECTUAL PROPERTY RIGHTS IN EGYPT:
AN INSTITUTIONAL ASSESSMENT**

Submitted to

**United States Agency for International Development
Cairo, Egypt
and
Ministry of Scientific Research
Government of Egypt**

Under

**A.I.D. Contract No. AEP-5451-1-00-2058-00
Delivery Order #14**

Submitted by

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July 1994

FOREWORD

This Final Report details the results of a study conducted under the auspices of the U.S. Agency for International Development (A.I.D.), "Study of Egyptian Organizations re Improving the protection of Intellectual Property Rights." This study was conducted in Egypt over an eight-week period from April through June 1994. A three-person team of intellectual property specialists examined all aspects of Egypt's intellectual property system in the context of international standards and successful practices. This study was completed with the assistance of the Economic Analysis and Policy Directorate of the A.I.D. Cairo office.

Throughout the study, the team received full cooperation from management and staff of the Economic Section of the American Embassy and of the Ministries of Culture, Scientific Research, and Supply and Internal Trade of the Government of Egypt. This study could not have been conducted without various kinds of assistance from a number of individuals. While these individuals are too numerous to mention individually, we are appreciative of the assistance given us by Officials of the Ministries concerned with intellectual property and staff at the American Embassy, who were particularly helpful in facilitating interviews and visits and who provided helpful comments. The team also appreciates the assistance of staff at the U.S. Patent and Trademark Office, who responded promptly to requests for documents and information that the team believed would be useful in formulating or carrying out the recommendations of this Report.

Bearing in mind that many individuals contributed important observations and information to this Report, the team would particularly like to express its appreciation to the following individuals for providing information, assistance, and comments in the course of the study:

In the Ministry of Scientific Research,

Her Excellency Professor Doctor Engineer Venice Kamel Gouda,

Minister of Scientific Research;

Professor Dr. Engineer Mohamed Mokhtar El Halwagi, First Undersecretary of State;

Engineer Abdel Gelil Abu El Fetouh, President of the Patent Office;

In the Ministry of Culture,

His Excellency Farouk Hosny, Minister of Culture;

Mr. Mohamed Ghoneim, First Undersecretary for International Relations;

Dr. Abdel Kader El Nashar, Legal Advisor to the Minister;

In the Ministry of Supply and Internal Trade,

Dr. Badr El Nasaar, President, Agency of Commercial Registration;

Madame Amal Hilal, Director-General of Trademarks;

Mr. Refaat E. Botros, Director of Industrial Designs;

In the American Embassy,

**Madelyn Spirnak, First Secretary, Economic Affairs;
Dr. Hany Hamroush, Scientific Affairs Specialist;
Dr. Mary Soliman, Economic Section;
Dr. Mark Gellerson, Economic Advisor, A.I.D.;
Ms. Judith Balent Morsy, Project Officer, A.I.D.;**

In the U.S. Patent and Trademark Office,

**Mr. G. Lee Skillington;
Mr. Lee Schroeder;
Mr. Dieter Hoinkes;
Mr. Keith Kupferschmid;
Mr. Nhat Phan, U.S. Patent and Trademark Office.**

In developing recommendations included in this Report, the team has attempted to reflect important concerns and objectives of the Government of Egypt. Nevertheless, the analyses, conclusions, and recommendations in this Report remain solely those of the team and do not necessarily reflect the views or policies of A.I.D., or any other individual or organization.

Finally, the author of this Report would like to express her sincere appreciation to the members of the consultant team, Samih Zaharna and Mostafa El-Shafie, who labored far beyond the six-day, eight-hour day to accomplish the work of this mission and whose insights shaped its recommendations, and to Melissa Moore, our Project Administrator, whose assistance was invaluable.

Contents

Executive Summary	x
PART I: ASSESSMENT	1
1. OVERVIEW OF THE STUDY	1
1.1. Purpose	1
1.2. Review of Intellectual Property System	1
1.3. Consultant Team	1
1.4. Methodology	1
1.5. Intellectual Property and Economic Development	2
1.6. GOE Goals	4
2. DEFINITION OF INTELLECTUAL PROPERTY	5
2.1. Industrial Property	5
2.2. Copyright	5
2.3. Glossary	5
3. PROTECTION OF INTELLECTUAL PROPERTY IN EGYPT	7
3.1. Overview	7
3.2. Industrial Property	7
3.3. Copyright	7
3.4. Enforcement	8
3.5. Plant Varieties	8
3.6. Chemical Products and Other Inventions	9
3.7. Semiconductor Layout Designs	10
3.8. International Intellectual Property Agreements	10
4. COPYRIGHT	11
4.1. Legal Framework	11
4.2. Importance of Copyright to Egypt's Economic Development	12
4.3. Evaluation of Legal Framework	12
4.4. Term of Protection	13
4.5. Deposit Requirement	13
4.6. Personal Use Exemption	13
4.7. Copyright Remedies	14
4.8. Recommendations	15
5. TRADEMARKS	17
5.1. Legal Frameworks	17
5.2. Procedures	17

Contents (continued)

5.3.	Personnel	18
5.4.	Training	19
5.5.	Work Load.	19
5.6.	Fees.	20
5.7.	Facilities.	20
5.8.	Tools and Materials.	21
5.9.	Equipment.	22
5.10.	File Integrity and Security.	23
5.11.	Pendency.	23
6.	INDUSTRIAL DESIGNS OFFICE	25
6.1.	Legal Framework	25
6.2.	Protection of Industrial Designs.	25
6.3.	Registration of Industrial Property Agents.	25
6.4.	Additional Responsibilities.	25
6.5.	Procedures.	25
6.6.	Internationally-Recognized Standards.	26
6.7.	Workload and Pendency.	26
6.8.	Fees.	26
6.9.	Personnel.	27
6.10.	Training	27
6.11.	Facilities.	27
6.12.	Equipment	27
7.	PATENT OFFICE	29
7.1.	Legal Framework	29
7.2.	Legal Responsibilities.	29
7.3.	Processing of Applications.	30
7.4.	Work Load.	31
7.5.	Fees.	31
7.6.	Personnel.	31
7.7.	Training.	32
7.8.	Facilities	33
7.9.	Equipment.	33
7.10.	Documentation.	34
7.11.	Pendency.	35
7.12.	Interim Provisions.	35
7.13.	Patent Cooperation Treaty.	37
8.	ENFORCEMENT	39
8.1.	Enforcement Methods.	39
8.2.	Judicial Authority.	39

Contents (continued)

8.3.	Court Delays.	39
8.4.	Effectiveness of Penalties.	39
8.5.	Adequacy of Civil Remedies.	40
8.6.	Application of Legal Principles.	40
8.7.	Expert Witnesses.	40
8.8.	Copyright Enforcement.	41
8.9.	Alternative Dispute Resolution.	41
9.	PUBLIC SERVICE AND EDUCATION	43
9.1.	Industrial Property Services.	43
9.2.	Intellectual Property Education.	43
	PART II: RECOMMENDATIONS	45
10.	STRUCTURAL CHANGES	45
10.1.	Create an Industrial Property Office.	45
10.2.	Consolidate functions that are duplicated within each of the separate offices.	46
10.3.	A study should be commissioned to design the new office and estimate its space.	47
10.4.	Provide for copyright information and liaison.	47
10.5.	Authorize the Industrial Property Office to retain at least a portion of the income it generates.	48
10.6.	Increase fees to cover the cost of enhancements to the industrial property system.	48
10.7.	Develop a quality review program.	49
10.8.	Create a performance-based incentives awards program to attract and retain high quality staff.	49
11.	COPYRIGHT	51
11.1.	No changes are recommended in the copyright law at present.	51
11.2.	Regular communication should be established between the Ministry of Culture and the ministry or agency responsible for the industrial property office.	51
11.3.	Provide copyright information and education to Egyptian industry and the public.	51

Contents (continued)

12. TRADEMARKS	53
12.1. Amend the Trademark Law to provide a longer period of time for filing an appeal and to provide for greater penalties for infringement.	53
12.2. Develop guidelines for the examination of trademark applications and for conducting oppositions and issue executive regulations incorporating those guidelines.	53
12.3. Provide Trademark Office employees with the basic tools needed to perform their duties.	53
12.4. Provide foreign language training for employees.	54
12.5. Provide training in trademark examination.	54
12.6. Arrange for optimum use of existing equipment.	54
12.7. Complete microfilming of the trademark files.	54
12.8. Move the Trademark Office to a larger and more modern facility.	54
12.9. Inventory and secure trademark files.	54
12.10. Trademark files should be computerized.	55
12.11. Design and conduct a training program on the examination of trademark applications.	56
12.12. Streamline Trademark Office procedures.	56
12.13. Publish the Trademark Journal promptly after examination.	56
13. INDUSTRIAL DESIGNS	57
13.1. Revise the Industrial Designs system to provide for notice and opposition, with the eventual goal of an examination system for design applications.	57
13.2. Within the next five years, industrial designs should be subject to examination and opposition.	57
13.3. Develop guidelines for determining the novelty of industrial designs. ...	58
13.4. Additional personnel will be needed to implement the changes recommended.	58
13.5. Develop and conduct training programs on examination of industrial designs.	58
13.6. Provide the Industrial Designs Office with the basic tools for performing its duties, such as application forms and other forms.	58
13.7. Provide the Industrial Designs Office with basic office equipment.	58
13.8. Microfilm the Industrial Designs file.	59
13.9. Move the Industrial Designs Office to a larger, more suitable facility, with separate areas for working with files and providing public service.	59
13.10. Files should be placed on a computer.	59

Contents (continued)

13.11.	Responsibility for trademark correspondence with the International Bureau should be moved to a special section in the combined Industrial Property Office, with responsibility for all international correspondence.	59
14.	PATENT OFFICE	61
14.1.	Adopt the draft patent law as soon as possible.	61
14.2.	Prepare guidelines on examination and procedures for handling applications under the new law.	61
14.3.	Design and offer an in-house training course on examination procedures.	61
14.4.	Provide technical training to technical examiners.	62
14.5.	Provide training in English, French, and German to enable examiners to read common reference works more proficiently.	62
14.6.	The Patent Office should develop an examining corps who are generalists.	62
14.7.	The Patent Office should accept search reports and substantive examinations from industrial property offices in other countries in suitable cases.	62
14.8.	Consideration should also be given to joining the Patent Cooperation Treaty.	63
14.9.	Part of the function now performed by Legal Examiners should be performed by Technical Examiners.	64
14.10.	Complete the patent documentation files in those areas needed for examination.	64
15.	EXPANDING INTELLECTUAL PROPERTY PROTECTION	65
15.1.	Join UPOV.	65
15.2.	Adopt legislation and guidelines for the protection of plant varieties.	65
15.3.	Protect semiconductor layout designs.	65
16.	ENFORCEMENT	67
16.1.	Design and offer training on intellectual property to judges and public prosecutors.	67
16.2.	Incorporate training on intellectual property into the training program that is given to new judges.	67
16.3.	Develop guidelines to assist judges in determining appropriate remedies in intellectual property cases.	67
16.4.	Offer training in intellectual property to experts who are appointed in intellectual property cases.	67
16.5.	Develop standards for the appointment of experts in intellectual property cases.	67

Contents (continued)

17. PUBLIC SERVICE AND EDUCATION	6
17.1. Provide technology searches for industry, universities, and research institutions.	6
17.2. Provide patent search capability for inventors, agents, and the general public.	6
17.3. Provide searches of trademarks and industrial designs for an appropriate fee.	6
17.4. Provide a public service desk where copies of trademarks, designs, and patents are available upon request, for an appropriate fee.	7
17.5. Establish a deposit account system for agents, attorneys, and other users of the industrial property office to prepay for services.	7
17.6. Provide services by fax or mail upon request where authorization is given to charge an appropriate fee to an established deposit account. ...	7
17.7. Offer subscriptions to technical bulletins describing issued patents.	7
17.8. Offer periodic tours of the Industrial Property Office to university students and professors.	7
17.9. Arrange for industrial property personnel to speak on intellectual property to interested parties, such as universities, schools, and business and professional organizations.	7
17.10. Provide technical assistance in the design of university courses, upon request.	7
17.11. Prepare flyers or pamphlets with basic information on intellectual property for distribution to the public.	7
PHASED ACTION PLAN	7

Illustrations

EXHIBITS

Exhibit A	Consultants
Exhibit B	Glossary
Exhibit C	Intellectual Property Conventions to Which Egypt is a Party
	Patent Applications Filed from 1989 to 1993, by Subject Matter
Exhibit D	National and International Patent Applications Filed from 1989 to 1993
Exhibit E	Trademark References
Exhibit F	Areas for Technical Training

APPENDICES

Appendix A	Draft Patent Law (February 22, 1994)
Appendix B	UPOV Convention
Appendix C	WIPO Model Law for Developing Countries on Industrial Designs
Appendix D	Excerpt from State Council Judgments
Appendix E	Reports of WIPO Expert Missions on Documentation
Appendix F	Patent Holdings of the Egyptian Patent Office
Appendix G	Patent Cooperation Treaty
Appendix H	Police Raid Pirate of Pirated Tapes

EXECUTIVE SUMMARY

Egypt has made great strides in improving its intellectual property laws, but further improvements are needed to promote economic development. Important segments of Egypt's economy lack intellectual property protection. Egypt's industrial property offices - the Patent Office, the Trademark Office, and the Industrial Designs Office - are not providing the services that are needed by Egyptian industry and the public. It takes too long to register a mark or obtain a patent, and Industrial Designs are neither published nor available for inspection. The Trademark and Industrial Designs Offices conduct all operations by hand and lack the basic tools and materials necessary to perform their duties. All three offices are in need of space, training, reference materials, and equipment.

Egypt's goal of a world-class intellectual property system can be met through a three-point plan:

1. Create an Industrial Property Office.

The Patent, Trademark, and Industrial Designs Offices should be combined under a single administration and located in a single facility. To finance enhancement and maintenance of its operations, this Industrial Property Office should be permitted to retain at least a portion of income generated by its operations.

2. Improve the legal framework for intellectual property.

The legal framework of Egypt's intellectual property system needs further improvement. The draft patent law should be adopted as soon as practical. The trademark and industrial designs laws should be amended to provide for publication and examination of industrial designs and for other improvements. A system of protection of plant varieties is also needed to protect and encourage development of Egypt's agricultural sector. Guidelines are needed in each area.

3. Provide the Industrial Property Office with adequate resources.

A performance-based incentives awards program should be established to attract and retain high-quality staff, and training should be provided for personnel. A capital equipment fund should be established to maintain up-to-date equipment. Modern office equipment should be provided, including computer workstations for conducting searches and storing documents. Records should be secured, and all marks and industrial designs should be recorded in a computer-searchable data file. Improved public services should be offered to the industrial, scientific, and academic communities.

Several problems have been identified with the copyright system, and a number of improvements have been made or are under way to address those problems. No recommendations for further changes in the copyright system are made at present.

-1-

PART I ASSESSMENT

1. OVERVIEW OF THE STUDY

1.1. Purpose. The purpose of this study is to examine the Government of Egypt's (GOE's) organizations that administer its intellectual property system and to suggest methods of improving its efficiency and effectiveness. Proposals made in the study, if implemented, could assist the GOE in improving protection of intellectual property in Egypt, thus contributing to the broader goal of creating a more positive climate for private sector investment.

1.2. Review of Intellectual Property System. To this end, a team of independent consultants has conducted a detailed review of Egypt's intellectual property system. The team has examined the various GOE agencies responsible for administering the intellectual property laws. The study included an evaluation of the legal responsibilities, decision-making process, personnel and facilities of the Patent, Trademark, and Industrial Designs Offices. The consultant team also reviewed the practical application of Egyptian intellectual property laws with knowledgeable private sector individuals. Based on that review and on successful practices followed in other countries, the consultant team has provided recommendations for improvements in the intellectual property laws, in the overall organization of the intellectual property system, and in the specific functioning of each agency involved.

1.3. Consultant Team. The consultant team includes one local expert on intellectual property and two intellectual property experts from the United States. The team's qualifications are described in Exhibit A of this Report.

1.4. Methodology. Information was obtained through a series of interviews with knowledgeable individuals, review of laws and regulations, on-site inspections of the industrial property facilities, and review of reports from previous studies.

1.4.1. In the course of the study, the consultants solicited the views of nearly

one hundred individuals and conducted more than sixty interviews with persons who are concerned with patents, trademarks, industrial designs, and copyright.

1.4.1.1. These included meetings with officials from the Ministries of Scientific Research, Culture, and Supply, and from the Censorship Department. In addition, the team interviewed working-level employees of the Patent, Trademark, and Industrial Design Offices.

1.4.1.2. Other individuals interviewed included industrial property agents, lawyers, a judge, academics, and representatives of industry and international organizations.

1.4.1.3. The team was unable to schedule an appointment to visit the facility or meet with officials of the Information and Decision Support Center.

1.4.2. The team also reviewed all laws on patent, trademark, designs, and copyright, including all amendments since the adoption of these laws.

1.4.3. Consultants visited the Patent Office, Trademark Office, and Industrial Designs Office and were briefed on their operations.

1.4.3.1. The team conducted a detailed review of these offices to assess their personnel, facilities, equipment, and workloads. This was accomplished through inspection of facilities, review of reports, and interviews with management and working-level personnel.

1.4.3.2. Officials of these offices furnished reports, some of which were generated by the offices in direct response to the consultants' requests or in response to requests by the World Intellectual Property Organization (WIPO). These included reports from missions by the European Patent Office (EPO) and WIPO experts. The team attempted to obtain all reports of previous studies and reviewed all reports furnished.

1.5. **Intellectual Property and Economic Development.** Adequate and effective intellectual property protection is a key factor in economic development. Patents and copyright promote the development of science, technology, art and culture by offering a limited period of exclusivity to authors and inventors. Protection of trademarks and the repression of unfair competition create a business climate that encourages investment and is conducive to economic growth of indigenous businesses. The broadest possible coverage of intellectual property and the flexibility to expand areas of coverage offer the best opportunities for industry and the public to benefit from economic growth.

1.5.1. A strong patent system encourages inventors to disclose their inventions in exchange for the opportunity to recover their investments and profit from their efforts. Both the inventor and the public benefit from such an arrangement.

1.5.2. An effective patent system offers inventors and researchers a means to attract investors to research and development projects. The ability to attract investors is increasingly important as the cost rises for certain kinds of new scientific and technological enterprises, particularly in the high-technology area. The availability of funds for better research and development facilities is important to allow a nation's scientists and engineers the best opportunities to make important advances in their own home country.

1.5.3. Effective copyright protection and protection of related rights of performers offer authors and performers the opportunity to profit from their works - books, plays, music - and performances. This protection should extend to all types of works, including computer software.

1.5.4. A strong copyright system promotes cultural development and economic growth. Authors often labor with little or no pay for their works while they are in progress. The ability to profit from these works over a period of time is often the only prospect of economic reward for such persons, who contribute greatly to the rich, cultural heritage of a nation.

1.5.5. Trade in goods and services increasingly relies on advances in technology. A nation is placed at a significant disadvantage if its intellectual property system fails to keep pace with changes in technology. Owners of the most advanced technology may elect to introduce it first into markets where better protection is available, thus delaying the time when the new product is available to industry and the public in areas where intellectual property protection is inadequate. In addition, it is often difficult to predict which areas of technology will have the greatest economic impact. In the computer area, for example, video games were originally the province of engineers and computer scientists and not the booming market they comprise today.

1.5.6. A properly constituted intellectual property system should contribute to economic development in more traditional areas as well as in high-technology areas of industry and research. The ability to develop a new plant variety is within the means of any Egyptian farmer and does not rely on expensive, high-technology facilities or know-how. Similarly, many

inventions that contribute to our daily lives were developed by individuals without the benefit of a research and development organization. Examples include Velcro, the fabric closure licensed by its French inventor to NASA for use on spacesuits, and correction fluid used in typing, developed by a secretary in her kitchen.

1.6. GOE Goals. GOE officials expressed a goal of achieving a world-class intellectual property system, with modern, efficient offices responsible for administering that system. High priorities were assigned to the need to serve Egyptian industry and the public and to further Egypt's industrial development. In addition, interest was expressed in the possibility of assisting development throughout the Arab world by serving as a regional center for filing Arabic-language patent applications. The team has conducted its study and formulated its recommendations with these goals in mind.

2. DEFINITION OF INTELLECTUAL PROPERTY

Intellectual property is generally divided into two main branches: industrial property and copyright.

2.1. Industrial Property. Industrial property comprises inventions, marks, and the repression of unfair competition.

2.1.1. An invention is a new development in any field of endeavor. A patent is a government grant of exclusive rights in the invention. The extent to which an invention may be patentable is determined by national law.

2.1.2. A mark is any sign or combination of signs capable of distinguishing the goods or services of one undertaking (i.e., person or business) from those of another. The terms "mark" and "trademark" include service marks.

2.1.3. Unfair competition includes any act contrary to honest commercial practices, including but not limited to breach of contract, misappropriation of trade secrets, and false or misleading representations as to the origin or quality of goods or services.

2.2. Copyright. Copyright comprises protection for works of authorship.

2.3. Glossary. A Glossary of acronyms and technical terms is provided in Exhibit B of this Report.

3. PROTECTION OF INTELLECTUAL PROPERTY IN EGYPT

3.1. Overview. The Government of Egypt (GOE) has statutory systems granting rights to inventors, proprietors of marks, creators of industrial designs, and authors. Systems for securing rights to these forms of intellectual property are located in the Ministries of Scientific Research, Culture, and Supply.

3.2. Industrial Property. Egypt protects industrial property through patents for inventions and registration of utility models, trademarks, and industrial designs.

3.2.1. Applications for patents for inventions are subject to examination, as are applications to register marks.

3.2.2. Industrial design applications are subject to registration without examination.

3.2.3. The repression of unfair competition is carried out through enforcement of the civil law, without an approval or registration process.

3.2.4. Egypt is a member of the Paris Convention for the Protection of Industrial Property¹ ("Paris Convention"). This provides the rights of national treatment and priority as well as certain minimum standards of protection for Egyptian nationals who may wish to apply for patents, register marks, or protect trade names in any of the other 117 member nations. Egypt is not a member of the Patent Cooperation Treaty.

3.3. Copyright. Rights in works of authorship are secured automatically, consistent with treaty obligations and Egyptian law, without formalities, although certain deposit requirements apply.

3.3.1. Copyright inheres when a work is created, without examination or

¹ Egypt is a member of the latest version of the Paris Convention, the Stockholm Text, with the declaration provided for in Article 28(2) relating to the International Court of Justice.

registration, and is available for all forms of works of authorship, including computer software.

3.3.2. Egypt is a member of the Berne Convention for the Protection of Literary and Artistic Works² ("Berne Convention"), which gives its nationals access to copyright protection under the laws of 105 other nations.

3.4. **Enforcement.** Rights acquired under the copyright law, patent law, trademark law, and industrial designs law are enforceable by civil actions for damages and by criminal prosecution.

3.5. **Plant Varieties.** The present patent law has no provision specifically relating to protection for plants or plant varieties, nor is there a *sui generis* form of protection for plant varieties.

3.5.1. A draft patent law specifically provides that patent protection is available for plant species. However, this provision appears to relate to plant inventions, i.e., new plant varieties that otherwise qualify as inventions under the patent law, and may not extend to plant varieties developed through ordinary plant breeding methods. See Article 1 of the Draft Patent Law, which is attached to this Report as Appendix A.

3.5.2. Egypt is not a member of the International Convention for the Protection of New Varieties of Plants ("UPOV") and appears not to have any registration scheme or administrative body responsible for the protection of plant varieties. This is particularly surprising for a nation where agriculture plays an important role in the economy. The protection of plant patents is, of course, an important measure, but the protection of plant varieties offers incentives for the development of new varieties with desirable qualities (such as drought-resistance) using traditional methods of plant breeding. A copy of the UPOV Convention is provided as Appendix B to this Report.

3.5.3. Membership in UPOV would give Egyptians national treatment in obtaining protection under the laws of other member countries. This could provide important

² Egypt is a member of the latest, or Paris Text, of the Berne Convention, with the declaration provided for in Article 33(2) relating to the International Court of Justice. In addition, pursuant to Article I of the Appendix to the Paris Act, Egypt availed itself of the faculties provided for in Articles II and III of that Appendix. This declaration is effective until October 10, 1994.

market advantages for Egyptian developers of new plant varieties, who may wish to export their agricultural products or, alternatively, to avoid having to compete with agricultural products of other nations obtained from seeds developed in Egypt.

3.5.4. Membership in UPOV requires a national law consistent with the requirements of the Convention, i.e., protection of plant varieties that are novel, distinct, uniform, and stable. Membership is relatively inexpensive. The minimum contribution under the 1991 Act is 0.2 units, currently \$3,700 per year.

3.5.5. National laws on plant variety protection vary considerably. In some nations, it has been thought desirable for the plant variety protection agency to conduct "growout" trials to test whether a variety proposed for protection meets the requirements of uniformity, stability, etc. In other countries, including the United States, the plant variety protection system is quite simple, using a small number of examiners to examine data submitted by the plant breeder as a basis for registration.

3.6. Chemical Products and Other Inventions. The present patent law excludes from patentability chemical products related to foods and pharmaceuticals. The draft patent law provides broader coverage, defining industrial applicability so as to include inventions in the fields of agriculture, foodstuffs, medical drugs, pharmaceutical compounds, plant and animal species, and microbiological processes and products. The breadth of coverage in the draft patent law is highly preferable in order to provide a more favorable climate for private sector investment.

3.6.1. Broadening coverage of patent laws to include pharmaceutical and chemical products can be expected in a number of countries over the next several years as a result of stronger intellectual property standards in such fora as the General Agreement on Tariffs and Trade (GATT). Some developing countries have expressed a desire to delay implementation of complete protection, and a ten-year transitional period is permitted for developing countries.

3.6.2. Deferring implementation of stronger intellectual property laws will not be desirable for Egypt. Such a delay would be inconsistent with Egypt's stated goal of serving as a regional leader in intellectual property matters. More importantly, the ability to strengthen its patent law now and to offer "pipeline" protection (see section 7.12) gives Egyptian leaders the ability to promote Egypt's economic development by using its leadership in this area to negotiate

directly with industry. The location of regional distribution centers and research and development facilities and the concentration of research efforts on matters of local interest are examples of objectives that may be of interest to a number of governments, but the ability to offer pharmaceutical patent and "pipeline" protection provides important leverage in the competition for desirable industrial or research facilities.

3.7. Semiconductor Layout Designs. Egypt has adhered to the Washington Treaty for the protection of semiconductor layout designs (also referred to as "mask works" or "integrated circuit topographies") but appears to have no implementing legislation.

3.7.1. Computer software is protected under copyright law, and inventions that involve new designs for electrical circuits are protected under the patent law, but the team was unable to identify any authority charged with responsibility for the protection of semiconductor layout designs.

3.8. International Intellectual Property Agreements. International relations are increasingly important to the development of a strong and effective intellectual property system. A number of treaties or other international agreements set forth minimum requirements for their members or provide certain benefits to each other's members. One of the chief advantages of membership in certain conventions is the guarantee of access for Egyptian nationals to the intellectual property systems of other member countries. The intellectual property agreements³ to which Egypt is a party are shown in Exhibit C.

³ In addition to various international agreements directed exclusively to intellectual property, intellectual property terms are increasingly features of multilateral and bilateral agreements on other subjects, including trade, investment, and scientific cooperation. Of these, the most sweeping are included in the Agreement on Trade-Related Aspects of Intellectual Property, developed as part of the Uruguay Round of negotiations under the GATT.

4. COPYRIGHT.

4.1. Legal Framework.

4.1.1. Copyright in Egypt is governed by Law No. 354 of 1954, as amended by Law No. 38 of 1992 ("Copyright Law").

4.1.2. Egypt is a member of the Berne Convention and therefore is bound to require no formalities as a condition for copyright. Unlike the situation for industrial property, there is therefore no "Copyright Office" responsible for granting authors' rights, although the Ministry of Culture has a general department responsible for authors' rights and a Permanent Bureau for the Protection of Authors' Rights. In addition, the copyright law provides for certain deposit requirements which are fulfilled with offices under the responsibility of the Ministry of Culture.

4.1.2.1. Article 48 of the Copyright Law places responsibility for administering the deposit provisions of the Copyright Law with the Minister of Culture.

4.1.2.2. The deposit requirement is currently shared among the Cabinet Information and Decision Support Center, the Book House, and the Censorship Department.

4.1.3. Executive Regulations for Protection of Audio- and Audio-Visual Works were issued in Prime Ministerial Decree No. 162/93. These Executive Regulations direct the Censorship Department of the Ministry of Culture to monitor audio- and audio-visual works pursuant to the Censorship Law No. 430/55 and to license various forms of exploitation of the work. In addition, these Executive Regulations specify that a showing of the licensee's rights to the work must be presented as a condition for obtaining a license pursuant to the Censorship Law.

4.1.4. Further implementation is specified to be as directed by the Ministry of Culture, and this is accomplished through Minister of Culture Decree No. 113/93 Regulating Issuance of Licenses for the Exploitation of Audio- and Audio-Visual Works and through

Ministry of Culture Decree No. 123/93, creating a General Department for "artistic" Licensing

4.1.5. Ministry of Culture Decree No. 82/1993 on the Execution of Copyright Law on Computer Works provides for the deposit of computer programs under the responsibility of the Cabinet Information and Decision Support Center under conditions where the works remain intact and where their safety, security and secrecy are ensured. Importantly, the law states that non-deposit shall not infringe on the terms of copyright protection under the law.

4.1.6. Prime Ministerial Decree No. 1012/94 clarifies that sound recordings are subject to protection of the copyright law and specifies that rental, copying, and public performance of such works are the exclusive rights of the author. This Decree further clarifies the personal use exemption under the copyright law.

4.2. **Importance of Copyright to Egypt's Economic Development.** Egypt has a significant market for art, books, film, music, and other works of authorship. The export market for such works has been estimated at LE60 - LE100 million⁴ per year, with the possibility to grow to LE500 million or more per year if Egyptian authors and producers took full advantage of copyright to negotiate stronger agreements, including provisions for satellite retransmission, and if intellectual property rights were fully protected in the export market.

4.3. **Evaluation of Legal Framework.**

4.3.1. Discussions were held with officials in the Ministry of Culture, members of the bar (including attorneys experienced in the enforcement of intellectual property rights and with the defense of such cases), and industry. Bar and industry contacts included representatives of the software industry, motion picture producers, and home videotape distributors. These industries had expressed concerns over aspects of Egypt's copyright system.

4.3.2. During the past several years, industry groups identified several specific areas of concern with Egypt's copyright law. Two of these involved the deposit requirement for books, films, and computer software. Especially in the case of software, it was feared that copyright protection depended on meeting the deposit requirement. With regard to technical works, it was further feared that deposit jeopardized the ability of the copyright owner to maintain trade secrets. Other concerns were a term of protection of only twenty years from the

⁴ As of June 1994, LE 3.39 = US\$1.00.

date of deposit for computer software and a personal use exemption that was thought by industry to be overly broad. In the area of enforcement, industry had complained that criminal penalties were too low to deter infringement, while civil enforcement was ineffective because of delays in the courts.

4.4. Term of Protection. The Copyright Law was amended by Presidential Decree, signed on March 5, 1994, to treat computer works as literary works. This provides a minimum term of term of fifty years from publication for computer programs and informatic works. Ministry of Culture Decree No. 82/1993 clarified that failure to deposit a copy of the work in no way affects the author's right to the protection of the copyright law.

4.5. Deposit Requirement. Ministerial Decrees concerning the Copyright Law do not abolish the deposit requirement but clarify that its application does not affect substantive rights to protection or, in the case of computer software, the term of protection.

4.5.1. Two points of view emerged on this issue: (1) that the deposit requirement may fall into disuse, at least in some sectors, and (2) that the deposit requirement will continue to be used because it provides useful evidence of the date of authorship of a work.

4.5.2. For technical works, there was agreement that the deposit requirement could be met by the deposit of less than a full copy (sometimes referred to as "identifying material"). Computer software (programs and data bases) is deposited with the Cabinet Information and Decision Support Center (IDSC), which received favorable comments on the manner in which it is operated.

4.5.3. Audiovisual works are deposited with the Censorship Department. In the case of books, deposit is made at the Book House.

4.6. Personal Use Exemption. The Copyright Law provides a limited exemption for copying, i.e., copying for personal use. Until recently, the effort and expense involved in copying limited the economic effect of this exemption. However, the ease of copying software, videotapes, and especially audiotapes makes such copying easy and inexpensive. Prime Ministerial Decree No. 1012/94 clarifies and limits the extent of this personal use exemption.

4.6.1. The extent of the personal use exemption is relatively narrow. It extends to the individual who makes a copy for his or her own personal use only and not for commercial purpose. The copy need not be made from an authorized copy to come within the personal use

exemption, but any transfer of money or other consideration for making the copy places the copying outside the scope of the exemption. Legally, copying a work for the use of another person does not come within the personal use exemption, but it is doubtful that this distinction (i.e., making a copy for a friend versus allowing a friend to make a copy) is observed in practice. Likewise, making a copy for use in a business would be considered infringement and therefore actionable. The principal justification for this provision is to balance personal privacy interests against the rights of copyright owners.

4.6.2. Industry, bar and authors appear to agree that there is no satisfactory way to enforce copyright against individual, noncommercial acts of copying, and that attempts at criminal enforcement in this area would unduly encroach on individual privacy. The damages associated with a single, noncommercial act of copying would rarely justify bringing a suit for damages. The distribution (including rental) of videotapes, audiotapes, and computer software is now regulated to assure that these activities are only conducted by authorized agents. Adequate enforcement against large-scale distributors was the only suggestion offered to limit the economic effects of personal copying, and industry representatives appear to be satisfied with this arrangement at present.

4.7. **Copyright Remedies.** Criminal penalties for infringement were raised in Law 38/1992, and the police actively respond to certain types of large-scale commercial infringement.

4.7.1. Bar and industry representatives describe a significant improvement in compliance as a result of such activities and note that while piracy still exists, it no longer operates openly as occurred in the past. Formerly, pirate organizations advertised copies of software at a per-diskette rate substantially less than the cost of an authorized copy, and these operations no longer appear to exist.

4.7.2. The situation is different for more traditional works of authorship, such as books. Egyptian authors identified a general lack of awareness of copyright principles and the cost of enforcement as problems. Court delays often allow pirates to operate for an extended period. Copyright protection is particularly important for works with a narrow market, such as scholarly works by university professors, where even small-scale copying drastically affects the author's ability to profit from his or her efforts.

4.7.3. **Recommendations.** No recommendations are made to amend the Copyright Law at this time.

4.7.4. There is general consensus among copyright users that recent changes in the copyright system should remedy those problems that have been identified. In addition, there is general satisfaction with the overall system. In view of these facts, the consultants believe that changes in the copyright system and recommendations for further improvements in the law, if any, should not be considered until there is an opportunity for some experience with the new amendments.

4.7.5. Greater public awareness of the rights of authors would increase the chances of success of the new amendments and would particularly benefit Egyptian authors of literary works. See sections 4.2, 11.3, 17.9, 17.10, and 17.11 below.

4.7.6. Recommendations relating to copyright enforcement are included in Chapter 16, on Enforcement.

5. TRADEMARKS

5.1. **Legal Framework.** The Trademark Office was established with the adoption of the Law No. 57 of 1939 Concerning Trade Marks and Commercial Definitions. Further guidance was specified by Ministerial Decree No. 239 for 1939 Regarding Trade Marks and Trading Statements. Egypt is a member of the latest, or Stockholm Text, of the Madrid Agreement Concerning the International Registration of Marks ("Madrid Agreement").⁵

5.1.1. Originally under the responsibility of the Ministry of Commerce and Industry, the Trademark Office was transferred to the Ministry of Supply in 1962.

5.1.2. The Trademark Office is responsible for examining applications to register or renew trademarks and for issuing registration certificates where appropriate. Rights in marks are acquired through registration and not through use, although the courts may take priority of use into account in cases where there is a trademark dispute.

5.2. **Procedures.** Applications are filed with the Trademark Office on prescribed forms, along with four copies of the mark, documentation, and the required fee of L.E. 15. The application may be filed by a principal or by an agent registered to practice before the Trademark Office. Applications filed locally must also designate the class of goods in which registration is desired. Applications designating Egypt may also be filed through the International Bureau in Geneva, and these are forwarded to the Trademark Office. All of these applications are subjected to formal examination and substantive examination.

5.2.1. Applications are checked for meaning and compared with similar marks. Once the search is completed, a preliminary decision is made to register or refuse the mark, or

⁵ Egypt is also a member of the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, being a party to the latest, or Lisbon Act, and to the Additional Act of Stockholm. Unless otherwise indicated, in this Report, "Madrid Agreement" refers to the Madrid Agreement Concerning the International Registration of Marks.

to approve registration subject to certain conditions. If the decision is made in favor of registration, the mark is sent for publication. The Office will notify an applicant (or his or her agent) of a preliminary decision to approve registration subject to conditions or to refuse registration, and the applicant or agent must appear personally to obtain a detailed decision. Where conditions are imposed, they must be fulfilled within six months. An appeal of a decision to refuse registration must be taken within ten days of the date of the decision. Appeals are decided by an appeal committee of three members, whose membership is specified by statute and ministerial decree. A decision upholding the refusal can be further appealed within two months to the Court, whose decision is final.

5.2.2. Once a mark is preliminarily approved for registration, it is sent for publication in the Trademark Official Journal, which is issued monthly. Marks so published are subject to opposition within three months of publication by any person for any of the reasons on which opposition is allowed. The applicant may likewise file a counter-opposition. Oppositions are resolved by a special department within the Trademark Office. Once the oppositions are resolved in favor of an applicant, or if no opposition is filed, a registration certificate is issued. If the opposition is upheld, registration is refused. Refusal of registration is appealable to the courts.

5.2.3. Registration is valid for ten years and is renewable within that time. However, a registrant is accorded his or her priority date for any renewal for which application is made within thirteen years of the original priority date.

5.3. Personnel. The Trademark Office has approximately sixty active staff in twelve departments under the direction of a Director-General.

5.3.1. Thirty of these employees have at least a baccalaureate degree, mostly with an emphasis in commercial matters. Six of these also have a degree in law, and three of these are involved with oppositions.

5.3.2. Additional personnel are needed to address backlogs in examination.

5.3.3. Present personnel lack adequate knowledge of foreign languages, especially English and French. Knowledge of these languages is critical for proper examination of a substantial number of applications. The French language is used for correspondence with the International Bureau on trademark applications filed under the Madrid Convention. This

correspondence is currently being conducted through the Industrial Designs Office, a practice which introduces needless delays into the processing of applications.

5.4. Training. None of the trademark employees has had training in foreign languages or in trademark examination techniques.

5.4.1. Six persons are slated to be trained in English at the Egyptian Armed Forces Language School, where they would begin with level one and would need to progress above level six to have an adequate knowledge for their duties.

5.4.2. Training is also needed in techniques of examination, modern filing systems, and techniques of information storage and retrieval. Employees appear to understand their duties but appear not to have guidelines for judging similarity of marks.

5.4.3. Training is needed to allow employees to take advantage of improvements in equipment. The World Intellectual Property Organization provided the Trademark Office with a computer, but lack of familiarity with English and with computers deterred the Trademark Office staff from opening the box for an entire year. This problem was addressed when an employee of the Patent Office set up the computer for the Trademark Office.

5.5. Work Load. Approximately 600 applications are received each month, about half from local filings and half through the International Bureau in Geneva.

5.5.1. All processing is done manually, including searching, examination, the preparation of an opinion on registrability, and correspondence with applicants. The only exceptions relate to applications filed internationally and designating Egypt, for which a portion of the search is conducted in Geneva, and to searches of marks from this authority, for which computerized searching is available for internationally-filed marks. However, local files must also be searched for international applications, and the remaining aspects of examination are conducted for these applications as with the applications filed locally.

5.5.2. Correspondence with the International Bureau in Geneva is handled by staff from the Industrial Designs Office.

5.5.3. All marks are recorded on index cards and filed by class in a search library. This library is constantly updated by the staff.

5.5.4. Files must also be maintained. Each application generates a paper file which must be retained indefinitely and accessed as needed. The total number of trademark

registrations to date is in excess of 99,000, although no one knows how many of these are still in force and how many files are retained.

5.5.5. The examination process is fragmented and inefficient, with files being transferred from room to room for a small portion of the search and examination function to be handled by various individuals. Without further guidelines and training, this process is probably the best system that can be arranged. However, personnel with adequate training in foreign languages, in information retrieval and search techniques, and in examination of trademark applications could perform the entire function more efficiently and with better substantive results.

5.6. Fees. The Trademark Office charges a fee of LE15 to file an application to register a mark. If the application is approved for publication, the applicant will pay additional fees of LE20 for publication and the preparation of a printing block. Additional fees are charged to conduct searches (other than in the course of examining an application), file an opposition, or amend information in an application or registration. The largest of these fees is LE30. Total fees for an uncomplicated application (i.e., one without amendments or opposition) are typically about LE45. The fee to renew a registration is LE20. In addition to income generated from these fees, the work of the Trademark Office generates payments of approximately SF500,000 per year for international applications filed through the Madrid Convention.

5.7. Facilities. The Trademark Office's present facility is unacceptable.

5.7.1. The Trademark Office is housed in an architecturally beautiful building, but the facility is dusty, unhygienic, and far too small. Additional lighting and ventilation are needed to provide the dust-free environment and cooling required for modern office equipment.

5.7.2. The Trademark Office occupies eleven rooms with a total area of slightly over 400 square meters.

5.7.3. Overcrowded files pose a hazard to personnel and to the integrity of the trademark system itself. Trademark files are currently filed and stacked in cabinets and open shelves in various portions of the office, where tall ladders must be used to retrieve them from the upper portions of the storage area. These shelves are precariously stacked on top of each other and are in danger of toppling. Files reach almost to the ceilings, which appear to be at least three meters high.

5.7.4. Files are stored in every available space, including hallways up to the

entrance to the Office and in other spaces accessible to the public. Files are unattended and vulnerable to destruction or tampering. Files are sometimes difficult to find and may be missing for days or weeks. Some are never located. Trademark files must be retained indefinitely so long as the marks are renewed, and the number of files thus continues to expand. Files are destroyed when they are no longer needed, but there is no record of which files have been destroyed.

5.7.5. Crowding of work spaces makes it difficult for personnel to perform their duties. There is inadequate space to work. In the search room, for example, file drawers for index cards occupy most of the space. The limited space between aisles barely accommodates the personnel responsible for updating the index so long as no users of the index are competing for the space and no two employees need to work at adjacent files. Similar problems exist in the rooms where personnel check files against reference materials or examine applications.

5.7.6. Index cards, which form the basic search tool and thus affect the substantive examination, are overcrowded. With 300 - 600 new marks being added each month, it is difficult to file the additional cards. Further, the overcrowding affects the accuracy of filing and retrieval when a search is conducted. Index cards are used by agents as well as Trademark Office personnel and are not well-maintained, despite efforts by Trademark Office staff.

5.7.7. There is no space to provide public services and thus no separation of public space from the work area of the employees.

5.8. **Tools and Materials.** Trademark Office employees lack the basic tools needed to perform their duties.

5.8.1. The examination of marks also includes a review of reference works such as dictionaries and directories. These materials are available only in paper form. Reference books are inadequate, and some are unusable. Dictionaries are too few in number and have missing pages. In one case, the first 350 pages of the reference book are missing. Employees rely heavily on these references in performing the substantive examination, and failing to provide such tools in adequate numbers casts doubt on the quality of the substantive examination.

5.8.2. The basic forms required for the Trademark Office are not supplied in adequate number. The Trademark Office lacks even the basic application form that is required to apply to register a mark.

5.9. Equipment. The Trademark Office lacks modern office equipment, and where such equipment is available, it lacks the ability to maintain that equipment. Applications are therefore processed almost entirely by hand.

5.9.1. The Office has a computer with CD-ROM capability for use with international marks. There is no maintenance contract on this machine. The CDs used with this machine are provided but not received with regularity from the International Bureau. This computer was provided by the U.N. Development program following a review and recommendation by the World Intellectual Property Organization (WIPO) in 1992. The single computer is housed in a separate, air-conditioned room that appears relatively free of dust. The computer's search software appears to be efficient and useful. The options screen seems to offer a reasonably user-friendly menu, while the search capability allows the user to search for elements of marks and to combine them using a Boolean logic.

5.9.2. Egyptian marks, which form a substantial part of the documents against which applications are examined, are not available on CD-ROM or in any other automated format. By contrast, systems with the capability to identify marks with common elements (e.g., portions of words) are used in the USPTO and the International Bureau. In addition, several commercial data bases are available with this type of search capability. At least one large office of industrial property agents has computerized its own files, which represent a substantial fraction of the total number of files in the Trademark Office, and has software with limited search capability.

5.9.3. The Office has two microfilm machines, both of which are unusable. The machines are too obsolete to repair. As a result, local marks are recorded on microfilm only up until 1987, after which they are not available except in the paper files. Further, the Office is unable to access the microfilm files for those marks that are recorded on microfilm. The Trademark Office needs the capability of catching up its microfilm backlog with new equipment and personnel who are trained in its use.

5.9.4. The Trademark Office needs more modern photocopying machines and other office equipment, including typewriters with Arabic and Latin characters.

5.9.5. The Office does not have adequate equipment for preparing documents other than by hand, or for receiving correspondence by telex or telecopier. A single photocopier

is available, but this machine is old, gives poor quality copies, and overheats badly after making only a few copies. No word processing system is available for the preparation of correspondence, including official decisions on registrability. Employees use scissors and a stapler to prepare index cards for registered marks from editions of the Official Journal.

5.10. File Integrity and Security. Trademark files are not secured and are vulnerable to tampering or destruction by fire or by other hazards. There is no archive or inventory of trademark registrations and files and no practical means of reconstructing those files that are lost (see sections 5.7.3, 5.7.4, and 5.7.6, above).

5.11. Pendency. In April 1994, the Trademark Office was examining applications filed in June 1993. The average pendency varies considerably, depending on whether an opposition is filed, and can typically range from one to two years. The average time between application and the first opinion on registrability is estimated as being six to nine months. A first opinion on registrability should ordinarily be available in three to four months.

6. INDUSTRIAL DESIGNS OFFICE

6.1. Legal Framework. Industrial designs are protected pursuant to Part II of Law No. 132 of 1949 Concerning Letters Patents and Industrial Drawings, Models and Inventions. Procedures governing industrial design protection are found in Part II of Ministerial Decree No. 230 of the Year 1951, promulgated by the Minister of Trade and Industry. The Industrial Designs Office was transferred to the Ministry of Supply in 1962 by Ministerial Decree.

6.2. Protection of Industrial Designs. The Industrial Designs Office is responsible for registering new industrial drawings and models. The owner of a registered design has the exclusive right to use on packaging or products, sell, import, or imitate a registered design. The term of protection is five years, renewable twice upon application.

6.3. Registration of Industrial Property Agents. The Industrial Designs Office is responsible for the registration of industrial property agents. Agents must hold a university degree in law, language, medicine or commerce; have a certificate of good conduct; and submit forms with personal information and a photograph of the applicant. Applicants must also be Egyptian nationals and may not be employed by the Government of Egypt. No examination is administered to determine the competence of the applicant to represent parties before the industrial property offices.

6.4. Additional Responsibilities. Correspondence between the Trademark Office and the International Bureau under the Madrid Convention is also conducted by the Industrial Designs Office.

6.5. Procedures. The Industrial Designs Office receives applications, estimates and collects fees, and creates and maintains records of applications. The office conducts a legal, or formal, review of the application to determine its completeness and corresponds with applicants where additional information or documents are needed. No search or substantive examination is conducted for novelty, and the Industrial Designs Office is legally prohibited from refusing a

registration for lack of novelty. It is the responsibility of the applicant to prove his or her entitlement to the registration if the matter is contested (i.e., there is no presumption of validity of a registration in enforcement proceedings).

6.5.1. Lack of examination permits registration of designs that are not novel, contrary to the law. This in turn burdens commerce and the courts with invalid registrations.

6.5.2. Bibliographic information is published upon the registration of an industrial design. Both pending applications and registered designs are maintained in secrecy by the Office except on court order. Access is not restricted to designs whose period of protection has lapsed.

6.5.3. Industrial property agents expressed frustration that the Industrial Designs Journal does not publish a copy of the registered design. Without either publication of registered designs or laying open of the register of designs, no notice is available to those who would avoid infringing registered designs.

6.6. **Internationally-Recognized Standards.** The World Intellectual Property Organization (WIPO) published a Model Law on Industrial Designs. This Model Law offers several alternatives, depending on the resources and preferences of the nation adopting the law. The preferable approach is to examine applications for novelty and to publish the registered designs. If resources are not available to implement this approach, alternatives call for laying open the register on which registered designs are recorded and publishing the application for opposition. A copy of the Model Law is attached as Appendix C of this Report.

6.7. **Workload and Pendency.** Approximately 1,500 applications are received each year to register industrial designs. Processing is done entirely by hand and takes twenty to thirty days to complete. The Industrial Designs Office also conducts all correspondence between the Trademark Office and International Bureau under the Madrid Convention as well as correspondence on trademark applications from local applicants for international marks. These transactions must be conducted in French or English, but the office lacks personnel who are adequately trained in these languages.

6.8. **Fees.** The filing fee to register or renew an industrial design is L.E. 2.50. An additional LE2 is charged to amend, correct, or add to an application. The largest single fee charged is LE10, to transfer ownership of the registration more than six months after registration.

6.8.1. The fees charged are far too low to cover the cost of processing the applications, even with the limited services now offered.

6.8.2. Unrealistically low fees coupled with lack of examination may encourage the filing of frivolous applications.

6.9. **Personnel.** The Industrial Designs Office has a total staff of 32 employees. Of these, twelve hold university degrees, and the remainder hold at least a secondary school diploma. Six of those employees with university degrees work in the section that conducts correspondence between the Trademark Office and WIPO, two work in the section concerned with registration of industrial property agents, and two work in the section responsible for complaints (i.e., petitions against refusal of registration). Only two individuals who are currently responsible for registration of industrial designs hold university degrees, and one of these is a supervisor. Additional staff with university degrees would be required if an examination system or opposition were instituted for industrial design registration.

6.10. **Training.** None of the employees of the Industrial Designs Office has received any training in classification or search techniques, in industrial property, or in automation. Three persons from this Office are enrolled in the Egyptian Armed Forces Language School, at level one French and need to achieve at least level five to conduct business adequately.

6.11. **Facilities.** The Industrial Designs Office is housed in four rooms and a corridor that doubles as a file room and office. Total space, including corridors and closets, is about 72 square meters. Work spaces are cramped, with tables and files leaving too little room for staff to work. Files are maintained in every available space, including a cabinet on an outdoor balcony. Crowding of files and work spaces is also hazardous to employees, and files reportedly have fallen on employees. This facility lacks adequate lighting and ventilation and particularly the temperature-controlled, dust-free environment that would be required for modern office equipment.

6.12. **Equipment.** Equipment in the Industrial Designs office consists of three manual typewriters, two with Latin characters and one with Arabic characters. No computer, photocopier, microfilm machine, or other modern office equipment is available.

7. PATENT OFFICE

7.1. Legal Framework. The Egyptian patent system is carried out under Law No. 132 of 1949 Concerning Letters Patent and Industrial Drawings, Models, and Inventions. Further procedures are set forth in Ministerial Decree No. 230 of the year 1951, promulgating the Executive Statutes of Law No. 132 of 1949 on Patents of Invention and Industrial Drawings and Models. This Ministerial Decree was promulgated by the Minister of Trade and Industry, under whose authority the Patent Office was initially situated.

7.1.1. In 1962, the Patent Office was transferred to the Ministry of Supply. Decree No. 543/1969 of the President of the Republic transferred responsibility for Patent Office affairs to the Academy of Scientific Research.

7.1.2. The Patent Office administers those aspects of the patent law that relate to the issuance of patents and the dissemination of patent information. Enforcement of patent rights is outside the purview of the Patent Office.

7.1.3. A draft patent law has been proposed, and evaluation of the patent system was carried out in the context of both the current system and the proposed system (February 22, 1994 draft). A copy of that draft law is attached to this Report as Appendix A. In view of the findings of the consultant team with regard to deficiencies in the current law and also opportunities for economic development offered by that draft (see section 3.6), the importance of that draft cannot be overemphasized.

7.1.4. Egypt is not a member of the Patent Cooperation Treaty or of any regional patent organization and therefore has no mechanism to facilitate international filing of patent applications by Egyptian applicants or the processing of international applications in the Egyptian Patent Office.

7.2. Legal Responsibilities. The Patent Office is responsible for reviewing applications for patents and utility model registrations and deciding whether to grant or deny protection. To

be patentable, an invention must show novelty, inventive step (nonobviousness), and industrial application (utility). To qualify for utility model registration, an invention must be novel and industrially applicable. If an applicant for a patent cannot demonstrate inventive step, a utility model registration may be issued instead. Under the present law (No. 132/1949), however, the Office is required to examine applications only for sufficiency of the disclosure and clarity, definiteness and accuracy of the claims and for formalities. It is not required or expected to examine applications for novelty, inventiveness, or industrial applicability. Passage of the draft law would require examination as to novelty, inventiveness, and industrial applicability.

7.3. Processing of Applications. Applications are received in the Documentation Branch and are subjected to a brief formal initial examination, including both a technical and legal review.

7.3.1. This initial examination is intended to identify those applications that lack some essential element needed to obtain a filing date as well as those that lack some other element that may be required for patentability but may not be necessary to obtain a filing date. Applicants are advised to furnish any missing elements, such as an abstract or Arabic translation, within three to six months.

7.3.2. New applications are then forwarded to the Technical Examination Branch, where a Technical Examiner conducts a search and technical examination under Article 18 of the present law and, with the assistance of the Documentation Branch, prepares a search report. Under the present law, the Patent Office lacks the authority to examine an application for novelty, inventiveness, or industrial applicability. (However, a search and examination for prior art are conducted, apparently to gain experience as part of a planned transition to an examination-based patent system. See, e.g., the excerpt from State Council Judgments relating to infringement, Appendix D.) The new application and search and examination report are forwarded to the Legal Branch for legal examination and to prepare a first Office Action.

7.3.3. Legal examination involves examination of the patent application and its enclosures to verify the presence and propriety of all required documents.

7.3.4. An applicant is allowed three to six months to respond to an Office Action and provide any missing documents. The response must be delivered in person. When the response is received, a technical examiner again reviews the application file and forwards his or

her report to the Legal Branch for the preparation of additional correspondence with the applicant. Depending on the responsiveness of the applicant, several Office Actions may be required. While there is theoretically no limit to the number of Office Actions that could occur, as a practical matter, examination is typically completed in one to three Office Actions.

7.3.5. About half of locally-filed applications are approved for issue of a patent, and a higher percentage of foreign-origin applications are approved. The remainder of applications are abandoned by the applicant, for example, by failure to respond to official correspondence in a timely manner. Successful applicants are notified that they must pay the fee for publication, currently LE25, for applications that are accepted.

7.3.6. Once the fee is paid, the accepted applications are forwarded to the Documentation Branch, where they are recorded, and then sent for publication. These applications are published for opposition in an Official Journal. After two months from the date of publication, if no opposition is filed, the patent is granted. If an opposition is filed, the applicant is notified, and a copy of the opposition is sent to the patent applicant within fifteen days. The applicant is given one month to respond to the opposition, which is decided by a committee, who may employ the services of technical experts.

7.4. **Work Load.** The Patent Office receives about 800 - 900 patent applications each year. Of these, about 35% - 40% are filed by local inventors. The remaining 60% - 65% are from are from foreign nationals, chiefly from the United States and Europe. Numbers and technical areas of applications received for the past five years are shown in Exhibit D to this Report.

7.5. **Fees.** The fee to file a patent application is currently set at LE75. Annual fees are also charged, beginning with the second year after filing. These fees increase incrementally, beginning at LE6 for year two and rising to LE150 for year 20. The total annual fees over the life of a patent would total just over LE1,000.

7.6. **Personnel.** A staff of about 110 full-time employees are available to process patent applications, to conduct searches based on outside requests, and to assist in the development of certain inventions.

7.6.1. Technical examination and searching are conducted by about twenty employees, all of whom have at least a baccalaureate degree in a technical discipline.

Examiners have experience in the Patent Office varying from three months to about twenty years.

7.6.2. Ten Legal Examiners hold degrees in law.

7.6.3. Documentation is handled by a staff of forty, including professional and clerical employees. Documentation staff are responsible for publications, issuance of patents, and collection of fees.

7.6.4. The remaining functions of Information, Finance and Administration, and Technical Information and Technology are handled by an additional forty persons. The Information Division is responsible for Computer and Library functions. Finance and Administration encompasses Personnel, Planning and Budget, and Purchasing, while Technical Information and Technology is responsible for training, marketing, and public affairs.

7.7. **Training.** The Patent Office offers a two-week period of training to new examiners, followed by on-the-job training within the Office.

7.7.1. This training is principally directed toward patent searching and examination.

7.7.2. Some employees also are offered administrative training.

7.7.3. Some training is also offered by the Academy in foreign languages. Some employees report that they have been unable to enter these courses and indicate that the courses require some familiarity with the language as a prerequisite for admission.

7.7.4. Further training is available to selected examiners from time to time through the auspices of the World Intellectual Property Organization (WIPO), the United States Patent and Trademark Office (USPTO), or the European Patent Office (EPO). Thirteen employees of the Egyptian Patent Office have been trained in the USPTO since 1985, including documentation experts, legal examiners, managers, and technical examiners. Of these individuals, the manager and four technical examiners remain in the Egyptian Patent Office, and two others are in the Academy of Scientific Research. The remainder are on extended leave or have assumed other duties, mostly in private practice.

7.7.5. Despite extensive training on-site and abroad, examiners appear to lack an understanding of important elements of the examination process. This must be remedied to enable the Office to meet its responsibilities if the draft patent law is enacted. Additional training should be begun as soon as possible, and attention should be given to structuring a more

effective training program.

7.8. Facilities. The Patent Office is housed in a modern facility that appears to be relatively well-maintained. All of the offices are located on a single floor in the building housing the Ministry of Scientific Research. Some files are located on an adjacent floor. The total area occupied is approximately 1,000 square meters.

7.8.1. Examiners share offices. Approximately twenty technical examiners are housed in two rooms. About ten legal examiners share a single office.

7.8.1.1. This arrangement is not desirable, as multiple occupants of an office tend to create a distracting atmosphere that makes it difficult to concentrate on complex, highly technical issues. This will become very important if the draft patent law is adopted, as examiners will be called upon to analyze applications and compare them with other technical documents as part of the process of examining for novelty. Experience in other offices suggests that it is desirable for examiners to have private offices if possible or to have not more than two examiners share an office.

7.8.2. The library is located in a large room and is generally well-maintained, although the burgeoning number of documents leads to some crowding and makes access difficult for some documents.

7.8.3. Computers are located in a separate room where a suitable environment is maintained, including the necessary air conditioning. The computer room is quite small, however, which limits access by Patent Office personnel and offers no room for additional equipment. The present facility lacks work space, counters for work materials, and seating space. Space is available for only one person to sit at the machine that has CD-ROM capability, and the arrangement of equipment in the room makes it difficult to place a chair before the other workstation.

7.8.4. There is no separate space for receiving the public or for providing public services, and all areas of the Patent Office are accessible to the public.

7.9. Equipment. The Patent Office has relatively modern equipment available to perform its functions, although more equipment is needed.

7.9.1. Two computer work stations are available for use by examiners. One has CD-ROM capability and is used for conducting searches of automated data bases of patent

materials. Additional terminals are available in selected offices within the Patent Office but because of their location, do not appear to be available for general use by examiners.

7.9.1.1. Under the present patent law, these resources are adequate. However, if Egypt adopts a system requiring examination for novelty, as proposed in the draft patent law, the present equipment will be insufficient for the needs of the Office.

7.9.1.2. Two constraints on the acquisition of additional equipment are a lack of adequate facilities to house and use the equipment, and training of personnel in the use of the equipment. One additional work station would immediately be useful, assuming that appropriate space could be allocated for that purpose, and an additional two work stations could be used over the course of the next year as personnel are trained and become proficient in the use of the equipment in conducting searches.

7.9.2. The Patent Office has photocopiers and typewriters, both of which appear to be adequate for present needs.

7.9.3. The Patent Office also has microfilm equipment available. This equipment is used to create a file of Egyptian patents on microfilm. Microfilm readers are available for use by examiners and documentation personnel in conducting searches.

7.9.4. The present computer equipment is suitable for use in word processing if proper software were acquired. Greater use of this equipment would enable examiners to conduct correspondence more efficiently.

7.10. **Documentation.** The Documentation Section is responsible for maintaining a library of technical documents against which the novelty and inventiveness of a patent application can be judged. The Documentation Section has an extensive collection of Egyptian and foreign patent documents in various forms. Many documents are stored in boxes, and some files are incomplete or missing.

7.10.1. Egyptian patents are microfilmed. This collection is incomplete, apparently due to a fire some years ago.

7.10.2. Current United States patents are received on microfilm, and a portion of the file is available only on paper. It would be preferable in terms of space and maintenance of the documents to have the entire file available on microfilm.

7.10.3. Patents from the European Patent Office are available on microfilm.

7.10.4. English-language abstracts are available for all patents from the Japanese Patent Office.

7.10.5. Patent collections are available from a number of other countries, and these are mostly in paper forms and in various stages of completeness.

7.10.6. The Patent Office had the benefit of at least two WIPO-sponsored expert missions on documentation, in 1989 and 1990. The WIPO experts, Mr. J.G. Stroud and Mr. J. Brennan, both of the European Patent Office, made recommendations on information policy. These recommendations appear to be valid and useful. Copies of those reports are attached as Appendix E to this Report. A chart prepared by the Documentation Branch of the Egyptian Patent Office shows current holdings of patent documents, and that chart is attached at Appendix F to this Report.

7.11. Pendency. The Patent Office is currently examining applications received in 1991, giving a pendency in excess of three years. By contrast, pendency of patent applications in the United States Patent and Trademark Office is approximately nineteen months.

7.11.1. The formal initial examination of a new application takes two to three hours and is typically completed on the day the application is received. The search and technical examination of a new application (for adequacy of disclosure, clarity of claims, and unity of invention) typically take two to four days. The principal delay occurs in technical examination, where there is currently a three-year backlog. Prosecution then occurs over a period of time, which may be two years, depending on the complexity of the application, whether an opposition is filed, and the responsiveness of the applicant.

7.11.2. Both the backlog of unexamined applications and the average period over which technical and legal examination take place need to be shortened. Patent applications frequently involve state-of-the-art subject matter, and in rapidly changing areas of technology, five years may represent several generations of technological development.

7.12. Interim Provisions. The draft patent law contains an interim provision extending certain benefits of the new law to inventions of chemical, agricultural, and pharmaceutical products for which patents have already been issued in another country.

7.12.1. Such inventions are sometimes referred to as "pipeline" inventions (analogizing the pendency of a patent application to material flowing through a pipeline).

7.12.2. One important advantage of the draft law is that it would expand the coverage of the patent law to include inventions in areas where the current law does not allow the granting of patents. This expanded coverage is important for Egypt's economic development.

7.12.3. Without this interim provision, in most cases, "pipeline" applications would be barred; invented too early to benefit from expanded coverage under the draft law, the issuance of foreign patents for the same invention would prevent the issuance of an Egyptian patent.

7.12.4. The interim provision would extend these benefits, on a limited basis, to inventions that are already the subject of issued patents. For those inventions that have not been marketed in Egypt prior to the effective date of the draft patent law and that are the subject of an unexpired patent elsewhere, the law would permit applications to be filed within one year of the effective date of the new law.

7.12.5. If the draft law is enacted, the Patent Office can expect to receive additional filings of pipeline applications, in addition to increased filings resulting from expansion of the subject matter for which patents are available. While it is impossible to know how large this increase will be, the experience of other countries suggests that the number may be in the hundreds. Mexico, for example, adopted a similar provision as part of changes in its law preliminary to entering the North American Free Trade Agreement. Mexico received approximately 500 pipeline applications, despite setting a fee of \$10,000 for handling each pipeline application.

7.12.6. Both pipeline applications and new applications in areas of expanded subject matter will require additional training of examiners, who have no experience with examining such applications.

7.12.7. Procedures will be needed to handle pipeline applications. Since these applications are already the subject of issued patents, most, if not all, will have been examined. Applicants may be willing to provide file histories, including search and examination reports, and to accept the claims that were allowed as a result of those applications. This would reduce the work of the Patent Office in handling pipeline applications and avoid the creation of a backlog in this area.

7.12.8. Pipeline applications also offer a unique opportunity to acquire training

materials for examiners who will examine applications in the expanded areas of coverage. The availability of complete file histories for pipeline applications will enable examiners to have the benefit of the analysis of experienced examiners in other patent offices. This is very important in developing the same analytical skills that will be required under the proposed system.

7.13. Patent Cooperation Treaty. The Patent Cooperation Treaty (PCT) is a multilateral agreement that facilitates the filing of patent applications in member countries. As of the date of this Report, sixty-four nations are PCT-members. Under the PCT system, a patent application may be filed in a patent office that has been designated as a Receiving Office, which collects and transmits both documents and fees on a timely basis. Alternatively, a nation may elect to use WIPO as its Receiving Office. Upon filing, the applicant must designate the countries in which patent protection is desired. The Receiving Office transmits the applications, designated an "international application," to a patent office that has been designated as an International Search Authority (ISA). The International Search Authority must possess certain minimum documentation as outlined in the PCT and its Rules, a copy of which are attached as Appendix G. Once the search is completed, the international application may optionally be forwarded to a patent office designated as an International Preliminary Examining Authority (IPEA). The IPEA conducts an examination and prepares an examination report on the basis of the search report generated by the ISA. At this point, the application enters the "national phase," where it is forwarded, along with the international search report and, if available, the international preliminary examination report, to the national patent offices designated by the applicant. The national patent offices retain the ability to apply their own national laws and to charge such fees as may be appropriate. The offices have discretion, at this point, to review the examination for compliance with their own laws and to rely on the international search and preliminary examination to the extent desirable. For example, the patent office of one country may conduct a complete national search and examination, while the patent office of another country may choose to rely on the international search report and international preliminary examination as to substantive matters but examine the PCT application for compliance with local procedures, such as translation and filing of required documents. The national patent office may set a fee for its activities in the national phase, and this fee may be the entire national processing fee, even where the search and examination are conducted in another office.

7.13.1. PCT membership makes it easier for applicants to file patent applications in foreign countries. Joining PCT is likely to increase the number of applications received by an office but could allow it to defer or avoid a substantial portion of the work associated with handling the applications.

7.13.2. Applicants may defer certain formalities, such as translation, until the national phase. This leads to some concern that joining PCT would have an adverse effect on industrial property agents. In practice, the reverse is true. The potential temporary decrease in national filings is generally offset by an overall increase in applications brought about by easier filing under PCT. Industries and attorneys do not disrupt established professional relationships rapidly. In addition, agents who are qualified to represent applicants before their national office are authorized to represent PCT applicants before any PCT office.

7.13.3. A nation desiring to join the PCT need not immediately become a Receiving Office, International Search Authority, and International Preliminary Examining Authority. It may prefer to make arrangements for another patent office to handle these duties, at least initially. As soon as an office's own procedures are in place, it may desire to be designated first as a Receiving Office, then when documentation requirements can be met, to be appointed as an ISA, and eventually as an IPEA.

7.13.4. Membership in PCT would be a reasonable step toward becoming a regional office.

8. ENFORCEMENT

8.1. Enforcement Methods. Enforcement of intellectual property rights is carried out through civil and criminal law. The civil process involves a lawsuit for damages by the owner of the intellectual property right. The criminal process involves prosecution of the alleged infringer. Both processes are available, either simultaneously or sequentially.

8.2. Judicial Authority. Judges in criminal cases may impose damages as well as a fine, or the intellectual property owner may choose to bring a separate civil case after the criminal case is concluded. There is no discovery process as in the United States, but the police gather evidence if a criminal case is brought. In the course of a raid, police seize infringing articles and often sales records as evidence and retain them pending trial. Examination of these records may expose the alleged infringer to civil liability as well as open the possibility that he or she will be found to have additional tax liability. Judges cannot impose jail for failing to comply with discovery. However, judges can appoint a person to seize records. Likewise, judges do not have inherent injunctive power but can impose a daily fine for noncompliance with any order.

8.3. Court Delays. The chief complaint about enforcement is the time needed to complete a court case. This reportedly can take years before an intellectual property owner can expect relief. Delays in the court system are not unique to intellectual property cases. Relatively straightforward cases reportedly take upwards of two years to complete, while more complicated cases can literally be pending for more than a decade until all avenues of appeal are exhausted. Appeals are reportedly taken to high levels even where it is generally believed that judges have correctly applied the law. Appeals may also be based on discretionary actions taken by judges. The existence of clear-cut standards or guidelines, particularly as to procedural matters, may serve to reduce the time currently spent in appeals.

8.4. Effectiveness of Penalties. Criminal penalties have recently been raised in the case of copyright infringement but are thought to be still inadequate in the case of trademark

infringement. However, the threat of police raids, which involve seizure of alleged contraband goods (see Appendix H), and subsequent prosecution do appear to serve as a deterrent to infringement.

8.5. Adequacy of Civil Remedies. Civil damages are also thought to be inadequate to reimburse the owner for actual losses. This is particularly a problem where infringement is carried out by small-scale, ill-funded pirates. Even if adequate damages are awarded in such a case, the intellectual property owner is unlikely to be able to collect these damages and may not even recover legal fees associated with the lawsuit. This situation contributes to the general preference for criminal remedies over civil remedies.

8.6. Application of Legal Principles. Concerns were also raised that judges and prosecutors lacked adequate experience with and understanding of intellectual property and as a consequence, sometimes applied incorrect legal standards. Judges are thought to be less well-informed on copyright, which is considered a relatively new concept in Egypt. The Copyright Law dates from 1954, as compared with the Trademark Law, which has existed at least since 1939. However, experience is relatively recent in applying copyright to some of the newer products embodying works of authorship, such as audiotapes, videotapes, and computer software. Some training for new and existing judges may be helpful. No cases were identified in which a patent infringement lawsuit had been brought.

8.7. Expert Witnesses. In Egypt, experts may be appointed by the court, and a need was cited for experts adequately trained in intellectual property. These experts advise the Court on matters of fact in complex or technical cases. In this regard, they serve a fact-finding function much like that of the special master in American courts. In addition, they provide the Court with information and informed opinions, as do expert witnesses in the American system. Failure to appoint an expert may serve as a basis for an appeal, sometimes leading judges to appoint experts in straightforward cases. Appointment of a well-qualified expert can be extremely helpful to a judge in the right case, but appointment of an expert where one is not needed by the judge adds to the cost of a trial. It would be useful to have a well-trained corps of experts who have a clear understanding of intellectual property law and practice as well as any technical matters that are within their competence. It would also be useful for judges to have standards that would indicate when experts are needed and when they may not be required.

8.8. Copyright Enforcement. In the areas of computer software and audiovisual works, piracy is deterred to some extent by market and/or technological considerations. With videotapes, for example, quality is degraded by copying, while with computer software, the availability of support for complex computer programs and the fear that viruses may affect sensitive data encourage users to deal with reputable dealers. These considerations do not generally exist for audiotapes and books, including academic texts, and comments were received that improved enforcement in these areas would benefit Egyptian authors.

8.9. Alternative Dispute Resolution. It may be useful to explore the possibility of resolving some intellectual property disputes through alternative dispute resolution (ADR). ADR has been used in the United States to avoid or limit the costs of litigation, particularly in highly technical, commercial cases. ADR includes a variety of approaches, including mediation and arbitration. Arbitration has been widely used in construction contracts, for example, where neither party can afford delays while disputes are resolved through the courts, and it is also frequently an element of patent license agreements. In many ways, ADR resembles traditional means of dispute resolution, where problems are submitted to a respected religious or community leader, and both parties agree to abide by that leader's decision. Modern ADR techniques attempt to provide the benefits of these traditional methods, which may offer greater possibility for compromise than litigation, in a more formal setting that reflects modern conditions. While not every case is suitable for ADR, it may be useful to explore the possibility of adopting these techniques in some circumstances.

9. PUBLIC SERVICE AND EDUCATION

9.1. Industrial Property Services. The industrial property offices offer limited services to industry and the public.

9.1.1. The Patent Office will perform searches of technical subjects for a fee.

9.2. Intellectual Property Education. A limited amount of intellectual property training is offered in universities, but the courses are considered to be too few in number to promote a widespread understanding of intellectual property.

9.2.1. There appears to be a consensus that intellectual property concepts are not generally understood by the public.

9.2.2. In addition, there appears to be no public information program to assist the Egyptian public in understanding and complying with the intellectual property laws or to assist Egyptian businesses and industry in securing the benefits of these laws.

PART II RECOMMENDATIONS

10. STRUCTURAL CHANGES

10.1. Create an Industrial Property Office.

10.1.1. The Patent Office, Trademark Office, and Industrial Designs Office should be combined under a single administration and relocated to a single location with adequate space.

Discussion: All three offices were under the same administration at one time, and the Designs Office and Trademark Office are presently under the same Director-General. The Industrial Designs Office handles all correspondence for the Trademark Office with international organizations. The Industrial Designs Office handles the registration of industrial property agents, who appear before all three offices. The offices deal with the same international organizations, for example, the World Intellectual Property Organization in Geneva.

Consolidating the offices would enable the combined office to provide better service to the public and users. The consolidated office would expand its capability to offer services to the public. Within the combined office, each of the prior offices could benefit from the human resources of the others, and employees could be relocated within the larger office to provide better and more efficient services. A single section can conduct correspondence between the International Bureau and all three offices more efficiently and effectively, for example. The Patent Office has been modernized more rapidly, and its employees could be helpful to the Trademark and Industrial Designs Offices while these offices are being modernized. The Offices need to be located in close proximity to each other to be able to take advantage of the combining of offices.

The larger combined office would have more personnel and higher demand for services than would exist in any of the three separate offices. Accordingly, the combined office should be able to devote greater resources to training of its personnel, thus enabling employees to perform their duties more effectively and efficiently. The higher demand for services would justify the acquisition of more sophisticated equipment than for three smaller offices, and the use of more sophisticated equipment should also improve productivity and efficiency.

10.1.2. The consultants have not made an exhaustive study of the available options and therefore do not present a recommendation as to the appropriate agency to administer the combined industrial property offices.

Discussion: In the course of interviews with users of the industrial property offices, two suggestions were expressed as to the most desirable organizational framework for the consolidated industrial property office: the creation of an independent agency reporting to the Prime Minister, and the Ministry of Scientific Research, which already has responsibility for the Patent Office.

Creation of a high-level independent agency was thought to be desirable to provide the industrial property office with the proper level of visibility and support to function effectively. Moving all industrial property functions to the Ministry of Scientific Research was thought to be desirable because the Patent Office is the best-organized of the three industrial property agencies, and it was believed that the Trademark Office and Industrial Designs Office would benefit from a relatively higher level of support as well as the technical expertise available in the Patent Office and the Academy of Scientific Research.

10.2. Consolidate functions that are duplicated within each of the separate offices.

Discussion: Management should centralize functions to eliminate duplication. The offices each receive fees, store and retrieve industrial property information, and publish journals. These functions should be consolidated for greater efficiency and better service to the public. The offices use or need to use the same tools, such as a library, computer, and other office equipment.

Centralizing facilities would both be more economical and also give the personnel of each office access to a greater range of equipment than would be available in a smaller office.

10.3. A study should be commissioned to design the new office and estimate its space.

10.3.1. Space for the Industrial Property Office should be larger than the combined space of the current facilities (about 1,500 square meters), each of which needs more space than it currently has.

10.3.2. The new facility needs to provide separate areas for public service, work spaces, and official files.

10.3.3. A public services area should be provided where agents, attorneys, scientists, and members of the public can obtain information. The public services area should be large enough to accommodate tables where documents can be examined. If possible, this area should accommodate terminals from which searches can be conducted of publicly available information, such as registered trademarks or issued patents. Space should also be provided for personnel to respond to requests for documents and information.

10.3.4. Files should be readily accessible to examiners and to staff who provide services to the public.

10.3.5. Examiners should occupy private or semi-private offices, and the examiners of trademarks, industrial designs, and patents should be located in reasonable proximity to the search tools each ordinarily uses.

10.3.6. The facility should have the capability to handle modern office equipment, i.e., air conditioning, sufficient lighting, electrical outlets in sufficient number, and protection against surges of electrical current.

10.3.7. Adequate telephone lines should be available to handle on-line computer searching and facsimile transmissions as well as inquiries from industrial property agents, attorneys, industry, scientists, and the public.

10.4. Provide for copyright information and liaison.

Discussion: The present circumstances do not justify moving responsibility for copyright from

the Ministry of Culture. However, it would be useful for the public to be able to obtain information on intellectual property from a single entity. Even where there is no responsibility for copyright in the organization, it is likely that inquiries will be received, and it would be helpful to have an office that could supply information and direct inquiries to the responsible office. In addition, industrial property questions and copyright questions sometimes have related issues, and it would be useful to have an established mechanism for liaison/coordination.

10.5. Authorize the Industrial Property Office to retain at least a portion of the income it generates.

Discussion: Resources are desperately needed, particularly for Trademarks and Industrial Designs, to make improvements and to carry out the work that the offices are charged with performing. Availability of resources is an ongoing problem. Resources need to be available to maintain any improvements made now and to continue to keep pace with the needs of the industrial property community. Resources are also needed to provide incentives for high performance.

10.6. Increase fees to cover the cost of enhancements to the industrial property system.

Discussion: Users of the system have indicated that they would be willing to pay increased fees for trademarks and designs if they could be assured that the increased fees would go directly towards improving services.

To the extent that increased fees burden development, it may be desirable to establish a system of reduced fees in some cases. Although nations are bound under the Paris Convention not to charge higher fees for the nationals of other Paris Convention countries than they charge to their own nationals, there is no prohibition against reducing fees based on other considerations, such as size or income of the entity. In the United States, for example, fees are set to recover the entire cost of operations of the Patent and Trademark Office, but a 50% subsidy is given to

patent applicants that are "small entities," i.e., small businesses (as defined by regulations) independent inventors, and nonprofit organizations (charities and educational organizations). This subsidy is available regardless of the nationality of the applicant. Likewise, there is no prohibition under the Paris Convention against charging additional fees for special services, such as examining an application out of order or processing a "pipeline" application.

10.7. Develop a quality review program.

10.7.1. Develop standards for review of the quality of performance, including correctness of substantive decisions as well as adherence to proper procedures. The quality review program should include an independent evaluation of the examination.

10.7.2. Management should monitor the quality of performance of each employee.

Discussion: A quality review program is absolutely essential to the development of an examination system. The GOE has stated an interest in serving as a regional examination center for Arabic language patent applications. To build confidence in its handling of applications, the Office will need a means of measuring the quality of examinations conducted by its personnel. Well-trained examiners who have proper resources and adequate supervision of their work should be able to conduct examinations correctly and thoroughly in a high percentage of cases. A quality review program reinforces the value of good performance for employees and offers management important insight into areas where greater attention may be needed.

A quality review system must also be instituted as a condition for a performance-based incentives awards program (see section 10.8). Otherwise, quality of examination may be sacrificed to achieve a greater quantity of work on which monetary awards are based.

10.8. Create a performance-based incentives awards program to attract and retain high quality staff.

10.8.1. Develop productivity standards.

10.8.1.1. Standards should be established to determine an acceptable level

of performance, and these standards should apply as norms.

10.8.1.2. Norms should reflect both quality and quantity of work performed.

10.8.1.3. Both employees and managers should ideally be involved in establishing these norms.

10.8.2. Establish a graduated scale of monetary incentives for performance that exceeds norms.

10.8.2.1. Awards should be substantial and should be based on a percentage of salaries. For example, an employee who exceeds norms by 20% -30% might expect to receive 50% - 100% of his or her monthly salary as a bonus.

10.8.2.2. These awards should be based strictly on productivity (including quality) and should not be discretionary.

Discussion: Human resources are crucial to the administration of an industrial property office. Industrial property involves sophisticated concepts and important skills. Users and the courts need to have confidence in the substantive determinations made by the office. The office also needs top performance from its employees to provide services to industry and the public. Sufficient monetary and other incentives must be established to ensure a high quality performance and high productivity staff.

11. COPYRIGHT

11.1. No changes are recommended in the copyright law at present.

11.2. Regular communication should be established between the Ministry of Culture and the ministry or agency responsible for the industrial property office.

Discussion: The legal framework for copyright has recently been changed to address previously-identified problems with the copyright law, and some experience is needed to determine whether further improvements may be desirable. No reasons are seen to suggest moving responsibility for copyright from the Ministry of Culture. However, coordination between the Ministry of Culture and the Industrial Property Office is essential since intellectual property matters often involve both industrial property and copyright issues. The Minister of Culture has proposed that the Ministry of Scientific Research nominate a representative to the Permanent Bureau for the Protection of Authors' Rights. This is a sound suggestion. Likewise, it may be helpful for the Ministry of Culture to nominate a representative to coordinate with the Industrial Property Office when that entity is established.

11.3. Provide copyright information and education to Egyptian industry and the public.

Discussion: The Ministry of Culture should use its resources to inform the public on the subject of copyright. Public service and educational activities that should be pursued are outlined in Chapter 17 below.

Information on the rights of authors would be particularly helpful to Egyptian authors. The Ministry of Culture could carry out an educational campaign independently or may be able to

cooperate effectively with personnel of the proposed industrial property office in carrying out similar educational activities for industrial property. For example, an informational brochure could be prepared by the Ministry of Culture and made available for distribution by the Industrial Property Office, which is likely to receive inquiries.

12. TRADEMARKS

12.1. Amend the Trademark Law to provide a longer period of time for filing an appeal and to provide for greater penalties for infringement.

12.2. Develop guidelines for the examination of trademark applications and for conducting oppositions and issue executive regulations incorporating those guidelines.

12.2.1. Guidelines should include standard criteria for determining the registrability of a mark.

12.2.2. The Commercial Registration Department has already undertaken a study of amendments for the Trademark Law in connection with revisions proposed under the GATT. This effort should be expedited.

12.3. Provide Trademark Office employees with the basic tools needed to perform their duties.

12.3.1. New reference books should be supplied in adequate numbers. A list of needed books is provided in Exhibit E to this Report. Each professional employee involved with the maintenance of the search index, the examination of marks, or oppositions and appeals could benefit from an English-Arabic dictionary. Multiple copies of other reference works should be maintained in a reference section for use as need arises. The number of copies needed will depend on the amount of usage of each work, but three to five copies of each should be sufficient for most works.

12.3.2. The basic forms required for the Trademark Office should be supplied in adequate number.

12.3.3. Typewriters (one each with Latin and Arabic characters), a microfilm reader, and a date/time stamp machine should be provided as soon as possible.

12.3.4. The Office should dispose of obsolete equipment that is no longer in working order and cannot be repaired.

12.4. Provide foreign language training for employees.

12.4.1. Proficiency in English and French would enable staff to conduct a more efficient and better substantive examination.

12.5. Provide training in trademark examination.

12.5.1. The Trademark Office should develop a training program in examination techniques and standards for Trademark Office employees.

12.6. Arrange for optimum use of existing equipment.

12.6.1. The Office has a computer with CD-ROM capability for use with international marks. Trademark Office staff need training on the use of this machine in order to be able to use it effectively.

12.6.2. A maintenance contract should also be obtained for the present equipment. Failure of a component would deprive the Office of the use of this expensive and useful piece of equipment.

12.6.3. Arrangements should be made to receive the CDs for this machine more promptly.

12.6.4. Maintenance agreements should be explored for any other items of equipment.

12.6.5. To function most efficiently, the Office also would need other modern office equipment, including photocopiers and word processing equipment. However, there is little point in placing additional sophisticated office equipment in the Trademark Office until it is renovated. The Office is presently overcrowded and does not offer an environment that would allow sensitive electronic equipment, such as photocopiers and computers, to function properly without incurring high maintenance. Recommendations for such equipment are therefore incorporated in the equipment recommendations for the consolidated industrial property office.

12.7. Complete microfilming of the trademark files.

12.7.1. If combined with the Patent Office, the Trademark Office could take advantage of microfilm equipment and personnel trained in its use.

12.8. Move the Trademark Office to a larger and more modern facility.**12.9. Inventory and secure trademark files.**

12.9.1. Public access to these files should be strictly limited, and the Office

should provide information and services to the public.

Discussion: The Office must take steps to ensure the integrity of its files. File integrity is essential to confidence in the trademark registration system. Where information is needed from files, it is the responsibility of the Trademark Office to provide such information. The public should be able to obtain copies of documents in a timely manner for a reasonable fee. The present facility does not lend itself to the organization and equipment that would be needed to institute appropriate procedures and offer greater public services, but this should be a top priority in the design of the consolidated industrial property office.

12.9.2. An archive of trademark registrations and files should be created and maintained in a separate location.

12.9.3. An inventory of files should be conducted as a prerequisite to computerization and creation of archival copies.

12.10. Trademark files should be computerized.

12.10.1. A computer system should be acquired to store trademark files.

12.10.2. Files could be scanned directly into the computer, along with basic information that is needed to retrieve the file.

12.10.3. This would improve file integrity and consequently the substantive results of the trademark system.

12.10.4. It would further ensure the security of Egypt's trademark system by providing a practical means of archiving data.

12.10.5. Consideration should also be given to placing local marks onto a computer system in a searchable format.

12.10.5.1. This can be done by creation of a data base that corresponds to the index cards presently used or by use of a data base that is searchable using Boolean connectors without reference to pre-determined elements.

12.10.5.2. A study on automation of the Trademark Office should be used to determine the feasibility of creating a computer search system for registered marks, i.e., a computer data base of registered marks with software that can be used to conduct a search for

marks with similar elements or designs.

12.10.6. The trademark facility must be improved before computerization would be appropriate.

Discussion: The level of dust and dirt in the office at this time are not a suitable environment for sensitive electronic equipment. In addition, current space is inadequate for the addition of further items of equipment.

12.11. **Design and conduct a training program on the examination of trademark applications.**

12.11.1. The training program should emphasize principles for judging the similarity of marks as applied to related goods and services.

12.11.2. Standard criteria should be applied in the initial examination and in conducting oppositions to determine whether a mark should be registrable.

12.12. **Streamline Trademark Office procedures.**

12.12.1. The entire examination and search are conducted by a single individual.

12.12.2. The present system should be left in place, however, until examination guidelines are developed and employees are trained in those guidelines.

12.13. **Publish the Trademark Journal promptly after examination.**

12.13.1. At present, there is approximately a ten-month delay in publication, chiefly because of a lack of financial resources.

12.13.2. This leads to unacceptable delays in the registration of marks and also to unreliable searches.

12.13.3. Providing the Trademark Office with adequate financial resources and budget authority is essential to resolve this problem.

13. INDUSTRIAL DESIGNS

13.1. Revise the Industrial Designs system to provide for notice and opposition, with the eventual goal of an examination system for design applications.

13.1.1. Industrial Designs regulations should be immediately changed to allow for the laying open to inspection of the Industrial Designs register.

13.1.2. Measures should be taken to ensure the security of Industrial Designs records before admitting the public to the Industrial Designs Office.

13.1.3. As soon as possible, a Ministerial Decree should be issued to allow for publication of the registered designs.

13.1.4. The Industrial Designs Law should be amended to permit examination and opposition for applications to register industrial designs.

13.1.5. As an initial step, a Ministerial Decree should be issued to provide for applications to be published for opposition.

13.1.5.1. Opposition should be determined on the basis of novelty of the industrial design.

13.1.5.2. As soon as staff are adequately trained and resources are available, another Ministerial Decree should provide for examination of industrial designs applications on the basis of novelty.

13.2. Within the next five years, industrial designs should be subject to examination and opposition.

13.2.1. This plan is consistent with the options provided in the WIPO Model Law On Industrial Designs for Developing Countries.

13.2.2. The Commercial Registration Department has already undertaken a study of amendments for the Industrial Designs Law along the lines discussed here in connection with

revisions proposed under the GATT. This effort should be given a high priority to encourage a positive investment climate in Egypt.

13.3. Develop guidelines for determining the novelty of industrial designs.

13.4. Additional personnel will be needed to implement the changes recommended.

13.4.1. Personnel will be needed to provide public service when the Industrial Designs Register is laid open to inspection and to make copies of records on request.

13.4.2. College-trained personnel will need to be available to institute an opposition system. Employees who conduct oppositions should ideally hold law degrees. Legal examiners from the Patent Office would ideally fill some of these positions and should be made available to help with the transition from a registration system to one based on novelty.

13.4.3. Institution of an examination system will also require additional personnel. Employees who are responsible for examination should be college-educated. Lawyers who have helped institute the opposition system should be available for consultations by industrial designs examiners.

13.5. Develop and conduct training programs on examination of industrial designs.

13.5.1. Employees of the Industrial Designs Office will need to be trained in examination of industrial designs before implementing an opposition or examination system.

13.5.2. As soon as trained personnel are available, an examination system should be adopted and implemented.

13.6. Provide the Industrial Designs Office with the basic tools for performing its duties, such as application forms and other forms.

13.7. Provide the Industrial Designs Office with basic office equipment.

13.7.1. Basic equipment needed includes typewriters, date-time stamping machine.

13.7.1.1. When suitable arrangements are made for laying open the register, a photocopier will be needed.

Discussion: Space limitations in the current facility would not permit the Industrial Designs Office to accommodate much additional equipment, and the lack of a dust-free environment makes it inadvisable to provide sensitive electronic equipment, such as computers, until improvements are made in the facility.

13.8. Microfilm the Industrial Designs file.

13.8.1. If the Office is combined with the Patent Office, microfilming could be conducted in a central facility.

13.9. Move the Industrial Designs Office to a larger, more suitable facility, with separate areas for working with files and providing public service.

Discussion: These changes will have to be made before the Office is opened to the public, as there is not space to accommodate public access, and the use of corridors to accommodate files makes the facility unsuitable for protecting the security of files at present. Improving the functioning of the Office is likely to increase demands on the office, exacerbating the problem of space limitations.

13.10. Files should be placed on a computer.

Discussion: Industrial Designs files can be stored and accessed through a single work station. However, the present facility is not suitable for introduction of a computer system, both because the Office lacks a suitable area in which to place the computer and also because the Office does not have a dust-free, cool atmosphere that is needed for a computer system.

13.11. Responsibility for trademark correspondence with the International Bureau should be moved to a special section in the combined Industrial Property Office, with responsibility for all international correspondence.

14. PATENT OFFICE

14.1. Adopt the draft patent law as soon as possible.

14.1.1. Flaws in the current system are addressed by the draft law.

14.1.2. GOE officials have expressed an interest in providing examination for Arabic-language applications from other countries as well as from Egypt.

14.1.3. The draft law would need to be adopted to permit the realization of this goal.

14.2. Prepare guidelines on examination and procedures for handling applications under the new law.

14.3. Design and offer an in-house training course on examination procedures.

Discussion: As soon as guidelines are available for examination of patent applications, industrial property training should be offered. The course should train examiners in techniques of search and examination, particularly with regard to novelty, inventive step, industrial applicability, and sufficiency and clarity of the disclosure. Following such training, examiners should be able to conduct the examination of a patent application independently and correctly. In view of the substantial amount of training that has already been provided to patent examiners, some attention should be given in the design of the training program to identifying those elements of previous training programs that have made them less effective than would be desirable.

14.3.1. Materials should be available for subsequent study and use.

14.3.1.1. "Pipeline" applications would be suitable teaching materials since their file histories will generally be known at the time of application.

14.3.2. The training should also provide for some on-the-job training by experienced personnel and refreshers after six months.

14.3.3. Advanced training should be provided to selected examiners.

14.4. Provide technical training to technical examiners.

14.4.1. A series of mini-courses should be offered on selected topics of technology. A list of areas where training is needed is provided as Exhibit F to this Report.

14.4.2. Field trips to manufacturing facilities and research institutions should be available to examiners to enable them to keep abreast of applications of new technology.

14.5. Provide training in English, French, and German to enable examiners to read common reference works more proficiently.

14.6. The Patent Office should develop an examining corps who are generalists.

14.6.1. This should enable the Patent Office to handle the bulk of applications filed.

14.6.2. As demand grows for examination of particular areas of technology, staff should be recruited with the appropriate qualifications, or current staff should be trained in those areas, as appropriate.

14.6.3. Where the need for examination of particular areas of technology does not justify either recruitment or retraining, examination can be provided by experts in these areas who are employees drawn from government agencies.

14.6.3.1. Strict guidelines must be observed to avoid loss of secrecy of pending applications and conflicts of interest between examiners and applicants.

14.6.4. Search reports and substantive examinations should be obtained from larger offices for applications in particular areas of technology where expertise is not available locally.

14.6.4.1. Especially for emerging technologies, there are sometimes only a few persons in the entire world with the proper expertise to understand a new invention. It is more likely that one of the larger industrial property offices will have personnel with the proper qualifications to examine applications in highly specialized areas, and it is impractical, from a management perspective, to attempt to recruit such highly specialized individuals to examine a limited number of applications.

14.7. The Patent Office should accept search reports and substantive examinations from industrial property offices in other countries in suitable cases.

14.7.1. Examination may be conducted by industrial property offices in other countries where an application calls for unusual expertise or to meet temporary surges in the numbers of applications received in general or in certain areas of technology.

14.7.1.1. Acquisition of these search or examination reports could be accomplished through agreements with other industrial property offices.

14.7.1.2. These reports could also be acquired from applicants on a voluntary basis.

14.7.1.3. Search reports could be used for reference by technical examiners in the Egyptian Patent Office.

14.7.1.4. In many cases, the applicant may be willing to furnish a file history from a priority application (i.e., the foreign application that forms the basis of a claim of priority under the Paris Convention) and accept the same breadth of claims as in that issued patent. In such cases, search and examination reports could be accepted by technical examiners in the Egyptian Patent Office, without replicating the extensive work involved in technical examination.

14.7.1.5. This method should be considered to meet demands of the "pipeline" protection provided in the draft patent law.

14.7.1.6. This approach should also be used to meet the increased workload that is likely to result from moving to the examination system provided under the draft law.

14.7.1.7. Acceptance of search results and examinations by other offices is becoming common among industrial property offices as a means of making optimum use of resources.

14.8. Consideration should also be given to joining the Patent Cooperation Treaty.

14.8.1. Membership in the Patent Cooperation Treaty would make it easier for Egyptians to protect their inventions abroad.

14.8.2. Applications filed under the Patent Cooperation Treaty would also be provided with an international search report, thereby reducing the workload in processing such applications.

14.8.3. It may also be desirable for Egypt to qualify as a Receiving Office and

eventually as an International Search Authority under the Patent Cooperation Treaty for international applications filed in the Arabic Language.

14.9. Part of the function now performed by Legal Examiners should be performed by Technical Examiners.

14.9.1. Checking an application for completeness should be part of the function of the technical examiner. Dividing this function among several people is inefficient.

14.9.2. To the extent that this frees lawyers for other duties, their services could be well-used in setting up and conducting opposition practice in the Industrial Designs Office. Additional lawyers could also be absorbed by the Trademark Office.

14.10. Complete the patent documentation files in those areas needed for examination.

14.10.1. Further documentation should be furnished in microform or in computer-searchable format.

14.10.2. The Office should attempt to secure the minimum documentation needed for examination and to serve as an International Search Authority under the Patent Cooperation Treaty. The recommendations of the reports in Appendix E should be followed with regard to retention of documents that are not used.

15. EXPANDING INTELLECTUAL PROPERTY PROTECTION

15.1. Join UPOV.

15.2. Adopt legislation and guidelines for the protection of plant varieties.

15.3. Protect semiconductor layout designs.

Discussion: Egypt will need to provide for protection of plant varieties and of semiconductor layout designs not only to meet emerging international standards of intellectual property protection but also to fulfill a leadership role in the Middle East. Egypt has already shown its interest in protecting semiconductor layout designs by ratifying the Treaty on Intellectual property in Respect of Integrated Circuits. However, national legislation is required.

16. ENFORCEMENT

16.1. Design and offer training on intellectual property to judges and public prosecutors.

16.2. Incorporate training on intellectual property into the training program that is given to new judges.

Discussion: Previous training programs have been offered to judges, but few attended. In designing a program, some attention should be given to reasons for low attendance and interest in previous programs and what steps may be taken to overcome those problems.

16.3. Develop guidelines to assist judges in determining appropriate remedies in intellectual property cases.

In many cases, judges are called on to decide whether to award a particular remedy, such as an injunction, or to determine the level of damages to be awarded. These decisions are vulnerable to appeal, even if made correctly.

16.4. Offer training in intellectual property to experts who are appointed in intellectual property cases.

16.5. Develop standards for the appointment of experts in intellectual property cases.

Discussion: Judges rely heavily on the testimony of experts in cases where the issues are somewhat unusual or the facts are of a technical nature. Legally, these experts do not decide matters of law. However, lack of a clear understanding of the law may lead the expert to

consider irrelevant factors or to exclude from consideration factors that are persuasive or even dispositive of legal issues. It would be useful to have a well-trained corps of experts who have a clear understanding of intellectual property law and practice as well as any technical matters that are within their competence. It would be helpful to judges to have clear guidelines identifying circumstances in which it may be more or less desirable to have the assistance of an expert.

17. PUBLIC SERVICE AND EDUCATION

17.1. Provide technology searches for industry, universities, and research institutions.

17.2. Provide patent search capability for inventors, agents, and the general public.

Discussion: Patents comprise a vast data base of technical information. This information may be useful to businesses and the public in solving day-to-day problems. License information may be sought from the owner of the patent, and for expired patents, use of the invention is free. Patent literature also includes information on technical subjects of interest to scientists and industrialists.

The Patent Office already conducts searches on a limited basis, but additional assistance could be offered. A reasonable fee should be charged for this service. In an appropriate facility, space could be provided for a public search facility separate from the files and search materials maintained for the benefit of examiners. A data base of issued patents only could be made accessible to scientists, industrialists, inventors, and agents who wished to conduct their own searches. This could be accomplished through a single terminal in the public area of the Industrial Property Office. Arrangements could also be made, if desired, for remote access to this information "on-line," provided that appropriate precautions were taken to assure that information could be downloaded but not uploaded into the files.

17.3. Provide searches of trademarks and industrial designs for an appropriate fee.

Discussion: Trademark Office staff reportedly do not have time to provide search services on

a timely basis, even though the service is one for which a fee may be charged. Provision of adequate resources, equipment, and staff would enable Trademark Office and Industrial Designs Office personnel to provide such services promptly to meet the needs of agents, industry, and the public.

17.4. Provide a public service desk where copies of trademarks, designs, and patents are available upon request, for an appropriate fee.

17.5. Establish a deposit account system for agents, attorneys, and other users of the industrial property office to prepay for services.

17.6. Provide services by fax or mail upon request where authorization is given to charge an appropriate fee to an established deposit account.

17.7. Offer subscriptions to technical bulletins describing issued patents.

17.7.1. Publish an abstract and drawing of each issued patent in an official publication. This should be in addition to the bibliographic information currently published for issued patents.

Discussion: A free trial subscription may be offered to allow industrialists, agricultural concerns, research institutions, and universities to evaluate its usefulness. Some consideration should be given to publishing these documents in the most useful format.

17.8. Offer periodic tours of the Industrial Property Office to university students and professors.

17.9. Arrange for industrial property personnel to speak on intellectual property to interested parties, such as universities, schools, and business and professional organizations.

Discussion: This may be particularly helpful for universities that wish to offer intellectual property information in their law, business, and engineering schools.

17.10. Provide technical assistance in the design of university courses, upon request.

17.11. Prepare flyers or pamphlets with basic information on intellectual property

for distribution to the public.

Discussion: Basic information on how to apply for a patent or register a mark or design is useful to inventors and businesses. Basic information would include, for example, the subject matter covered for each area (e.g., patents for inventions), what protection is available, where to apply, what documents are needed, the fees, the term of protection, and whether the applicant requires an agent or attorney. Compilations of information on Industrial Property Office procedures (possibly in the form of pamphlets or handbooks) would also be helpful to applicants and industrial property agents. More advanced intellectual property information may form the subject of advanced courses in universities, law schools, and engineering schools. A number of universities in the United States, Europe, Africa and Asia offer advanced training in various aspects of intellectual property. It may be useful to establish cooperation with one or more schools with established intellectual property programs in order to gain the benefit of their experiences and to abstract those approaches that are most suitable and helpful for particular applications in Egypt. Another source of assistance in this area is WIPO, which recently conducted a seminar in Cairo on the teaching of intellectual property in Arabic-speaking countries.

17.11.1. Provide information on how Egyptians can protect intellectual property rights abroad.

Discussion: General information on protecting intellectual property rights abroad would be helpful to small and medium-sized businesses that are just beginning to consider entering foreign markets.

PHASED ACTION PLAN

The following changes in the legal framework should be undertaken as soon as possible:

Action: Enact the draft patent law.

Action: Amend the Trademark Law to provide a longer period for filing an appeal.

Action: Create an Industrial Property Office.

Action: By Prime Ministerial Decree, move administrative responsibility for all three industrial property offices - Patent, Trademark and Industrial Designs - to a single authority.

Action: Give the Industrial Property Office the authority to retain a portion of the income generated by its activities and the authority to use those fees for personnel and equipment.

Action: Issue a Ministerial Decree allowing laying open of the Industrial Designs register and publication of registered designs

Action: Amend the Industrial Designs law to permit opposition and examination for novelty

Action: Enact a law for the protection of plant varieties.

Action: Establish an office for the protection of plant varieties.

Action: Join UPOV.

Action: Adopt legal protection for semiconductor layout designs.

PHASE I. The following actions should be undertaken as soon as possible:

Action: Provide training in foreign languages for professional employees in all three industrial property offices:
English, French and German for technical employees
English and French for trademark, design, and legal staff

Action: Provide basic tools needed for work:
forms in Industrial Designs

forms, reference books in Trademarks (See Exhibit E of the Report; one English-Arabic dictionary for each professional employee, three-five copies each of the remaining references for common use). Estimated cost for reference books: \$4,000

Action: Obtain a maintenance contract for the Trademark Office's computer. Estimated cost: \$1,500

Action: Train Trademark Office staff on the effective use of current computer equipment. Request this assistance from WIPO.

Action: Improve equipment available for work by acquiring:
 two typewriters (Latin and Arabic) for Trademarks
 two typewriters (Latin and Arabic) for Industrial Designs
 one additional workstation with CD-ROM capability for Patents
 date/time stamp machines for each office
 Estimated cost: \$11,000

Action: Adopt guidelines for the examination of marks.

PHASE II. The following actions should be undertaken within the following three to six months:

Action: As soon as possible after Industrial Designs regulations are changed to permit laying open of the register, purchase one photocopier and maintenance contract for one year.

Estimated cost: \$2,500

Action: As soon as possible after consolidating administrative authority for industrial property, commission a study to design and allocate space for the combined office, in accordance with acceptable standards and planned use of the facility. This study needs to be divided into two phases: estimating the total space needs for the facility, and designing the facility and allocating space within it after the facility is acquired.

Action: Design and conduct a training program on trademark examination consistent with the guidelines adopted.

Action: Commission a study on the computerization of trademark and industrial designs files.

PHASE III. The following actions should be undertaken over the next year:

Action: Design and conduct a training program on techniques of patent examination.

Action: As soon as possible after enactment of the draft patent law:
 Adopt Executive Regulations for the new patent law.

Adopt guidelines for examination of patent applications.

Complete patent documentation files.

Purchase additional equipment for patent searching:

Two additional workstations and one additional printer, as personnel gain proficiency with automated searching and begin to use these systems more for examination.

Estimated cost for equipment and one year's maintenance contract: \$12,500.

Microfilm versions of U.S. patents cost about \$5,500 per year. Estimated cost of completing the microfilm files of U.S. patents (replacing missing documents and replacing paper collection with microfilm): About \$165,000.

Action: Locate and acquire a suitable facility to house the combined industrial property offices in a single location.

Action: Consolidate the administrative functions presently performed separately by the Patent Office, Trademark Office, and Industrial Designs Office (e.g., fee collection, receipt of documents, publication), each into a single organization within the Industrial Property Office.

Action: As soon as possible after amending the Industrial Designs law,
Adopt guidelines for deciding oppositions in industrial design applications.
Prepare Executive Regulations.
Develop guidelines for determining the novelty of industrial design applications.

Action: Create and adequately fund a performance-based incentive awards program to attract and retain high-quality staff.

Action: As soon as possible after creation of a consolidated Industrial Property Office, acquire adequate amounts of modern office equipment:

- two modern microfilm machines with read-write capability
- two high-volume photocopiers
- a facsimile machine
- three additional microfilm readers for use by trademark, designs, and patent personnel
- computer equipment for computerizing trademark and designs files and for subsequent searching:
- server and four personal computers (1 with CD-ROM)
- two scanning stations
- one color laser printer
- two black/white laser printers

Acquire long-term maintenance contract, training and technical support for at least one year. Estimated cost: \$200,000 for equipment, maintenance contract, short-term support and training

Action: Purchase word processing equipment for preparation of correspondence, desk-top publishing, in addition to above equipment. Estimated cost: \$16,000

Action: Establish a capital improvement fund to acquire, maintain, replace, and upgrade equipment and tools.

Action: Secure and inventory trademark and design files.

Action: Convert all paper documents in trademarks and industrial designs to microform and computer.

Action: Create and conduct training programs on various areas of technology. Engage technical experts - scientists, engineers, examiners - to give a series of minicourses. Allow one week for each course. Arrange for examiners to visit manufacturing facilities and research institutions to learn about applications of new technology.

Action: Prepare informational pamphlets to enable industry and the public to benefit from improvements in Egypt's intellectual property laws

PHASE IV: The following actions should be undertaken over the next two to five years:

Action: Join the Patent Cooperation Treaty.

Action: Adopt executive regulations and guidelines providing for examination of industrial designs. Train employees in techniques of examination of industrial designs.

Action: Establish a deposit account system for users of the industrial property office to prepay for services.

Action: Design and offer training on IPR for judges and public prosecutors.

Action: Offer training on IPR for experts who are called upon by the courts.

EXHIBITS

Exhibit A

CONSULTANTS

JUDY WINEGAR GOANS, Chief of Party

Ms. Goans is a patent attorney registered to practice before the U.S. Patent and Trademark Office. Before establishing her own law firm, she was a legislative and international intellectual property specialist in the U.S. Patent and Trademark Office. Ms. Goans practices all areas of intellectual property law. She is currently serving as a technical consultant to the Government of Egypt and the U.S. Agency for International Development.

SAMIH ZAHARNA, Intellectual Property Specialist

Mr. Zaharna is currently serving as a technical consultant to the Government of Egypt and the U.S. Agency for International Development. He formerly worked as a Group Director in the U.S. Patent and Trademark Office, where he managed various groups in the chemical arts and was involved in the formation of the USPTO's biotechnology program.

MOSTAFA HUSSIEN EL-SHAFIE, Local Intellectual Property Specialist

Mr. Shafie is a registered industrial property agent with more than eight years' experience. Mr. Shafie was employed for several years by one of the largest offices of patent and trademark agents in the Middle East. He has worked extensively as a translator of intellectual property documents, including the copyright law of Saudi Arabia, and has represented numerous clients before the Egyptian Patent and Trademark Offices, with responsibility for preparing and prosecuting applications before those offices.

Exhibit B

GLOSSARY

author	person who creates and is entitled to exercise control over any work of authorship
Berne Convention	Berne Convention for the Protection of Literary and Artistic Works; the most important copyright convention
Boolean logic	branch of logic that deals with rules for combining of classes of elements. As an example, using Boolean logic to conduct a trademark search, it would be possible to identify all marks that included either the element "flex" or the element "past" but did not include the element "time"
computer work	a computer program or data base
copyright	that branch of intellectual property that deals with the protection of rights of authors
deposit requirement	a legal requirement that certain materials be deposited with a government agency or third party. In copyright law, a deposit requirement is considered a formality and may not be a condition of protection in a nation that is a member of the Berne Convention.
discovery process	under some systems of law, legal proceeding by which evidence may be obtained from adverse or third parties
EPO	European Patent Office
GOE	Government of Egypt
industrial design	any composition of lines or colors, or any three-dimensional form, that gives a special appearance to and can serve as a pattern for a product of industry or handicraft
industrial property	that branch of intellectual property concerned with inventions, marks, trade names, indications of source or origin, and the repression of unfair competition. Industrial property is generally understood in its broadest

sense as applying not only to industry and commerce but also to agriculture and extractive industries and to all manufactured or natural products.

integrated circuit topography

the design of an integrated circuit; term is used interchangeably with "mask work" and "semiconductor layout design"

intellectual property

includes the rights relating to literary, artistic, and scientific works; performances of performing artists, phonograms, and broadcasts; inventions in all fields of human endeavor; scientific discoveries; industrial designs; trademarks, service marks, and commercial names and designations; protection against unfair competition; and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields. (from the Convention Establishing the World Intellectual Property Organization)

International Bureau

the organization responsible for administering certain activities under an international convention; WIPO is the International Bureau for the Patent Cooperation Treaty and for the Madrid Convention

IPEA

under the Patent Cooperation Treaty, an international search authority

ISA

under the Patent Cooperation Treaty, an international preliminary examining authority

know-how

technical information that may be valuable in carrying out an undertaking most effectively

Madrid Agreement

may refer to either of two conventions: Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods or Madrid Agreement Concerning the International Registration of Marks; only the latter is referenced in this Report

mark

any sign or combination of signs capable of distinguishing the goods or services of one undertaking (i.e., person or business) from those of another. The term "mark" includes trademarks, service marks, certification marks, and any other similar designation.

mask work

used interchangeably with semiconductor layout design; integrated circuits are typically created using a series of masks, or templates, to build up the different layers of the circuit design

PCT

Patent Cooperation Treaty

pipeline protection	patent-like protection offered by a first country for inventions that are already the subject of a patent issued by another country at the time the subject matter of the invention becomes patentable in the first country
plant invention	a new variety of plant that meets the requirements for patentability
plant variety	any cultivar, clone, line, stock, or hybrid in the Plant Kingdom which is capable of cultivation and meets the requirements for protection under a plant variety protection law
semiconductor layout design	the design of an integrated circuit
service mark	any sign or symbol serving to distinguish the <i>services</i> of one enterprise from those of other enterprises
<i>sui generis</i>	of its own form; applied when a new form of intellectual property protection is created rather than adapting an established form
trademark	any sign or symbol serving to distinguish the <i>goods</i> of one enterprise from those of other enterprises
unfair competition	any act or practice contrary to honest practices in industrial or commercial matters
LPOV	International Convention for the Protection of New Varieties of Plants; treaty governing the protection of plant varieties
USPTO	United States Patent and Trademark Office
utility model	exclusive rights typically granted for a shorter period of time than for patents for certain industrial innovations that may not meet the more stringent requirements to be patentable
WIPO	World Intellectual Property Organization
World Intellectual Property Organization	specialized United Nations organization responsible for the administration of various international conventions on intellectual property

Exhibit C

INTELLECTUAL PROPERTY CONVENTIONS TO WHICH EGYPT IS A PARTY

Convention Establishing the World Intellectual Property Organization
Paris Convention for the Protection of Industrial Property
Berne Convention for the Protection of Literary and Artistic Works
Madrid Agreement for the Repression of False or Deceptive Indications of Source on
Goods
Madrid Agreement Concerning the International Registration of Marks
Hague Agreement Concerning the International Deposit of Industrial Designs
Strasbourg Agreement Concerning the International Patent Classification
Convention for the Protection of Producers of Phonograms Against Unauthorized
Duplication of Their Phonograms
Nairobi Treaty on the Protection of the Olympic Symbol
Treaty on Intellectual Property in Respect of Integrated Circuits⁶

⁶ Eight states have signed this Treaty, but only Egypt has ratified it, and the Treaty has therefore not come into effect.

Exhibit D

**PATENT APPLICATIONS FILED FROM 1989 TO 1993,
BY MAIN SUBJECT AREAS**

SUBJECT AREA	1989	1990	1991	1992	1993
Medicine and pharmaceuticals	177	212	216	218	225
Agriculture	109	131	135	137	142
Chemistry	45	52	56	62	67
Mechanical Engineering	192	233	230	239	250
Electrical Engineering	57	74	65	69	68
Civil Engineering	42	48	49	54	58
Other Areas	32	38	38	39	24
TOTAL	653	788	787	818	831

LOCAL AND INTERNATIONAL PATENT APPLICATIONS

YEAR	LOCAL	INTERNATIONAL	TOTAL
1989	185	468	653
1990	281	507	788
1991	308	479	787
1992	301	517	818
1993	330	501	831

Exhibit E
TRADEMARK REFERENCES

London telephone directory
Encyclopedia of names
Geographical dictionary
English language dictionary (e.g., Webster's)
French language dictionary (e.g., Larrouse's)
Spanish language dictionary
Italian language dictionary
Latin dictionary
German language dictionary
Medical dictionary (e.g., Stedman's)
British pharmacopeia
Dictionary of chemical terms/nomenclature
English-Arabic dictionary
Arabic-English dictionary
French-Arabic dictionary
Arabic-French dictionary
Greek-English dictionary

Exhibit F

AREAS FOR TECHNICAL TRAINING

Electronics, including

- production of integrated circuits and miniature electronic components
- semiconductors
- electronic communications networks
- computer-assisted design

Optical technology, including

- lasers
- fiber optics

New compounds, including

- composite materials
- high-temperature superconductors

Biotechnology, including

- genetic engineering
- nucleic acids and their interactions

Appendix A

DRAFT PATENT LAW (FEBRUARY 22, 1994)

(February 22, 1994 Version)

DRAFT BILL ON PATENTS

In the name of the People

The President of the Republic

The People's Assembly have approved this law

Article One

Provisions of the attached law will apply to patents and utility models.

Article Two

Chapter One of Law 132/1949 concerning patents, designs and industrial models is hereby canceled as well as all that was mentioned in Chapter Three of the said Law conflicting with the attached law. In addition, any provisions mentioned in other laws conflicting with the provisions of this law shall be canceled.

Article Three

The Patent Office will be responsible for the implementation and follow-up of the attached law as well as for the provision of information services related to patents and technical publications thereof issued in Egypt or abroad or patents that became accessible to the public and have been used by individuals, government authorities and non-governmental organizations to benefit in development and technological evolution on a national basis.

Article Four

This law will be published in the Official Journal and will become effective on the date of its publication.

(February 22, 1994 Version)

Chapter One

General Rules

Article (1)

An invention patent shall be granted in accordance with the provisions of this law, for every new innovative step feasible for industrial application whether in connection with new industrial products, new industrial ways or means or new applications of industrial known ways or methods. It is understood that the word industrial is taken by its wide meaning to include agriculture, foodstuffs, medical drugs, pharmaceutical compounds, plant and animal species and micro-biological processes and their products.

Article (2)

No invention patent shall be granted in the following cases:

- a. Inventions the exploitation of which involves immorality or public disorder.
- b. Discoveries, Scientific theories, mathematical methods, programs and plans.
- c. Diagnostic methods used for human and animal treatment.

its description was disclosed in a tangible form, or its drawing has appeared in circulations published in Egypt or abroad

Article (3)

- A. An invention shall not be considered partially or totally new in the two following cases:
 1. If prior to the date of submission of the application for the patent the invention has already been publicly used in Egypt or abroad, or if the invention was disclosed in a tangible form, or it was orally announced in Egypt provided the description or the drawing published is sufficiently clear to enable experts to exploit it and without prejudice to the provisions of article 47 of this law.

(February 22, 1994 Version)

2. If prior to the date of submission of the application for the patent, a patent had already been issued for the invention or part thereof to a person other than the inventor or to a person to whom his rights have devolved or if an application had already been made for a patent by another person for the same invention or part thereof.
2. A disclosure to the public of the invention shall not be taken into consideration with regard to the patent application mentioned in paragraph (A-1), if it occurred within one year preceding the date at which the applicant filed that application.

Article (4)

A special register at the Patent Office will be provided in which patents and all related particulars will be registered in accordance with the provisions of this law and the decisions issued in connection to its implementation.

Article (5)

The following persons shall have the right to apply for patents:

1. Egyptians.
2. Foreigners residing in Egypt or having an industrial or commercial establishment in Egypt.
3. Foreigners belonging to a country according Egypt similar treatment or residing in that country or having a real domicile therein.
4. Companies, societies, establishments, groups of industry owners, producers, or workers that are founded in Egypt or in a country according Egypt similar treatment, when they enjoy a legal personality.
5. Public concerns.

Article (6)

The title to a patent shall be the property of the inventor or the person to whom his rights have devolved. If the invention is the result of team work involving several persons they shall all have an equal common right to the patent unless they agree to the contrary. If the invention is arrived at by several persons, each working independently, the title to the patent shall be for the person submitting his application before the others.

(February 22, 1994 Version)

Article (7)

If a person is committed to another person with a special contract to achieve a specific invention, the patent title will devolve to the second person unless otherwise agreed on.

Inventions achieved by an employee during the course of his actual employment or included in the activities of the public or private establishment of which he/she is part, will have the right to the patent title, however, he may not exploit it prior to informing the employer. The latter has the right to either purchase the patent title or its exploitation rights within three months from receiving a written notification from the employee who owns the patent title and in all of the above cases, the compensation should be fair and consider the economic outcome of the invention and the name of the inventor should be mentioned in the patent title.

Article (8)

The application made by the inventor to obtain a patent for his invention within a year from the date of his leaving the public or private establishment shall be considered as having been presented during the execution of the contract or the existence of the work or employment bond. This period is extended to three years if the inventor joins a competing establishment provided his invention is a direct result of his previous activity and experience in the previous establishment.

Article (9)

Rules of articles 7 and 8 shall not be applied to contracts made outside the Arab Republic of Egypt.

Article (10)

The period of the invention patent shall be twenty years starting from the date of the application of the patent and it is non-renewable. The provision of this article shall also be applied to patents previously granted on condition that they are still under patent protection in the country of origin.

{ February 23, 1994 Version }

Article (11)

It is permissible to apply for an invention patent related to medical drugs, pharmaceutical, agricultural, and chemical products that were not patentable subject matter under the Egyptian Patent and Designs Act Number 132 of 1949 for a period of one year from the effective date of this law if:

(1) The product has not been marketed in Egypt prior to the effective date of the new patent law;

(2) The product is the subject of an unexpired patent elsewhere and the term of protection will be equal to the term remaining in the other country.

Article (12)

A patent gives its owner the sole right to exploit an invention by all means.

Article (13)

On filing an application for a patent, the applicant shall pay a certain fee and an annual fee starting from the second year until the expiration of the patent period. This fee increases annually. In addition, certain inspection and procedural fees shall be paid by the applicant. Under no circumstances shall these fees be refunded. The executive regulations will determine the value of the fees.

Article (14)

If the subject of the invention is merely the introduction of improvements or additions to an invention for which a patent had already been given, the patentee or the one introducing the improvements or the additions shall have the right in accordance with the provisions of this law to apply for a separate patent.

Article (15)

With the approval of the concerned minister, the Academy¹ may pay all or part of the required fees for the Egyptian applicants who are not able to if their situation so deserves it.

¹ Meaning the Academy of Scientific Research and Technology.

(February 22, 1994 Version)

CHAPTER TWO

Procedures for the Application of a Patent

Article (16)

Application for a patent shall be made by the inventor or by the person to whom his rights have devolved to the Patent Office in accordance with the rules set forth by the executive regulations. An application for a patent can not cover more than one invention and it is considered that a group of inventions that are so linked so as to form a single inventive concept is one invention.

Article (17)

An application for a patent shall be accompanied by a detailed description of the invention and the method of its exploitation. The description of the invention should clearly indicate the new elements which the concerned party wishes to protect. If the case so requires, the application shall be accompanied by a detailed drawing of the invention. An application should be accompanied by the commercial register, proxy, abandonment papers or transfer of ownership documents legally notarized. The executive regulations will specify the required attachments to an application and the time frame in which these documents should be submitted and the right of the Patent Office to reject the application. The patentee shall have the right to exploit his invention as from the date of submission of the application.

Article (18)

The Patent Office shall have the right to ask the applicant to make the necessary modifications in the application in accordance with provisions of the preceding article and during the time frame specified by the executive regulations. Should the applicant fail to do so, he shall be considered as having withdrawn his application. The modifications of the application should not go beyond what has been disclosed in the application as originally filed.

Applicants may appeal against the Patent Office's decision to the committee referred to in Article (45) of this law in the time frame specified by the executive regulations.

(February 22, 1994 Version)

Article (19)

The Patent Office shall examine an application for a patent and its enclosures objectively to ensure that the elements for which protection is requested are innovative, new and suitable for industrial application in accordance with Articles (1) and (3) of this law.

Article (20)

Should an application fulfill the conditions set forth in Articles (14), (15), and (17) of this law, the Patent Office shall publish it in the manner specified by the executive regulations.

Article (21)

Any concerned person may, within the time specified by the executive regulations, present to the Patent Office a written notification objecting to the issuance of a patent and stating the reasons for the objection and shall also provide a bond as specified by the Patent Office in an amount sufficient to compensate the patent applicant for any delay in the grant of a patent resulting from the opposition. Also, any concerned person may submit a written notification objecting to the granted patent in whole or in part by stating his reasons for the objection on the grounds of the provisions of article 1. In case of a request to revoke a patent, the patent office before making any decision shall provide the opportunity to the patent owner and to the owner of the opposition-(or canceling) request to submit their arguments to the Patent Office.

Article (22)

The concerned minister or his delegate shall decide the issuance of a patent to the person entitled to it in accordance with the means specified in the executive regulations.

(February 22, 1994 Version)

Article (23)

The patent applicant may at any time, prior to publication, submit an application to modify the specification of the invention or its drawing, while giving details on the nature of the modification and rationale provided the modification does not affect the individuality of the invention. The same procedure related to the application for a patent shall be followed in regard to this application and the modifications should not go beyond what has been disclosed in the application as originally filed.

Article (24)

After the publication of acceptance of a patent application, any person shall have the right to obtain copies of applications for patents and the documents relative thereto and extracts from the invention patent register from the Patent Office. He may also examine applications, documents and the register in the manner specified in the executive regulations. However, publication of a patent application shall not occur until 18 months after the date of filing of the application during which period it shall be a secret.

(February 22, 1994 Version)

CHAPTER THREE

Transfer of Ownership of a Patent, its Mortgage and its Attachment

Article (25)

The right to a patent is transferred by way of inheritance, together with all consequent rights. The transfer of all or part of the ownership of an invention is made with or without compensation and its mortgage will be allowed.

Without prejudice to the acts of the law concerned with the sale or mortgage of commercial establishments, the transfer of ownership of a patent shall not be accepted as evidence against a third party until after due annotation thereof in the register. The announcement of the transfer of a patent ownership and its mortgage shall be made in the manner set forth in the executive regulations.

Article (26)

Creditors may effect an attachment on the invention patent of their debtors in the manner laid down in the Pleading Law on the Attachment of Movable Properties and the seizure of what is due to the debtor in the hands of a third party. The Patent Office shall be exempted from the rules relative to obtaining a declaration from the person against whom a seizure is made before an attachment is effected against him.

The creditor shall notify the Patent Office of the attachment and the proces-verbal of adjudication in order to enter an annotation therefore in the register. They shall not be taken as evidence against a third party except from the date of this annotation. The attachment shall be announced in the manner set forth in the executive regulations.

Article (27)

Should the concerned minister determine that use of a patent by the state or by others who have been licensed by the state, is necessary for national defence or for public (general) non-commercial purposes, or is necessary because a patent was non-exploitable as a result of not being able to produce or import the patented product or of not being able to use the patented process, the patent office may grant a compulsory license for use of the invention if the following conditions are met:

- A- The patent owner refuses to reach an agreement with the applicant to exploit the patent within a reasonable period of time and on reasonable terms. The Patent Office may waive this condition in case of a national defense necessity or general non-commercial purposes.
- B- The patent owner shall receive fair remuneration, taking into account the economic value of the invention.
- C- If a dispute has been raised on the above, the committee mentioned in article 44 will resolve the dispute.
- D- The state may grant a compulsory license to other parties but these parties do not have the right to assign the license.
- E- The scope and the duration of the use of the compulsory license shall be limited to the purpose for which it was authorized.
- F- Authorisation of the use of compulsory license shall be considered on its conditions (or its merits).
- G- The use of compulsory license shall be non-exclusive and may grant it to others for the interest of the Egyptian market.
- H- The Patent Office may cancel the compulsory license if the circumstances which led to the compulsory license

(February 22, 1994 Version)

have been lifted (or have disappeared). The procedures to be followed in this case will be specified by executive regulations which will include the protection of those whose interests depended upon the authorization of the compulsory license.

Article (28)

Should the Patent Office find that the reasonable prescribed periods in point A of the preceding article have elapsed, or the failure to exploit the invention is due to legal, technical, or economic reasons beyond the control of the patentee, it shall be empowered to grant him a satisfactory grace period for the exploitation of the invention in full.

Article (29)

If the exploitation of an invention can not be completed without the exploitation of another invention, the patent office may grant a compulsory license if the conditions mentioned in article 27 are met in addition to the following conditions:-

- A- The requested authorization includes an important technical and economic advance in comparison to the original patent.
- B- The owner of the original patent has the right to obtain a parallel compulsory license for the exploitation of the claimed invention in the original patent².
- C- It is not permissible for the licensee to provide the license to others without the approval of the owner of the license.

² This appears to be a typographical error; the term "original" should be "other or second"

{ February 22, 1994 Version }

Article (30)

The Patent Office should inform all competent authorities in the State and the Public Sector about any invention which is in the national interest, but which the inventor failed to exploit within four years from the date of granting the patent. This is taking into consideration the above mentioned procedures.

Article (31):

All State Authorities and the Public Business Sector must refer to the Patent Office before contracting on any project that utilizes a patent right. This is to get all relevant information concerning the patent and the extent of its association in the public domain, as well as the applications and patents previously registered in the same field.

{ February 22, 1994 Version }

CHAPTER FIVE

Termination and Annulment of the Invention Patent

Article (32)

The rights based on an invention patent shall be terminated in the following cases:

- a. Lapse of the protection period granted under the invention patent, in accordance with the provisions of Article (9) of this law.
- b. Cession thereof by the patentee.
- c. The issue of a judgment carrying the force of a matter in which judgment has been rendered for the annulment of a patent
- d. Failure to pay the required fees and delay fines in accordance with a table that shall be specified by the executive regulations.

Patents terminated in such cases shall be announced in the manner specified in the executive regulations.

Article (33)

The Patent Office and every concerned person will have the right to apply to the Administrative Court of the State Council to annul patents that may have been granted in violation of the provisions of article (2) and (3) of this law. The Patent Office shall cancel such patents upon a court decision to this effect.

The Court may render judgement at the request of the Patent Office or those concerned, to add to the register any particulars that may have been omitted or to strike off or modify any details inscribed in the register, if unjustifiably entered therein or incorrect.

(February 22, 1994 Version)

Article (34)

Should the invention not be exploited in Egypt within the two years following the issuance of a compulsory license, any concerned person shall have the right to request the cancellation of the compulsory license granted by the Patent Office.

CHAPTER SIX

Utility Models

Article (35)

- (A) A utility model patent shall be granted to whomever submits an application including a new technical solution, in shape or composition, for a number of means or operating tools or parts thereof, etc. which are in current use.
- (B) The applicant for a utility model patent can convert his application to an invention patent if all the requirements are met and the applicant for an invention patent can convert his application to a utility model patent application. In both cases, the date of submission shall be the date of the original application.

Article (36)

- a. The Patent Office should publish the acceptance of the utility model application within six months from the date of the submission of the application.
- b. The utility model protection period is seven non-renewable years starting from the date of the submission of the application.

(February 22, 1994 Version)

Article (37)

On filing an application for a utility model patent, the applicant shall pay a certain fee and an annual fee starting from the second year until the expiration of the protection period. This fee increases annually. The executive regulations will determine the required attachments for the application, the time periods within which the application and its attachments are submitted and value of the fees. Under no circumstances shall these fees be refunded.

Article (38)

The provisions of this law will apply to all patents except those specifically mentioned in this chapter.

{ February 22, 1994 Version }

Chapter Seven

Offenses and Penalties

Article (39)

(A) Shall be punished by imprisonment for not less than six months and by a fine not less than LE 5,000 (five thousand Egyptian pounds) or by one of these two penalties:

1. Any person imitating the subject of an invention for which a patent has been granted in accordance with this law.

2. Any person selling or offering for sale, or for circulation, or importing from abroad, or possessing with the intention of trading, imitated products or materials while knowing this and when the invention has been registered in Egypt.

3. Any person unjustifiably quoting particulars which lead to the belief that he has obtained an invention patent on products, advertisements, trademarks or packing materials.

(B) The punishment is reduced to half in the case of utility models.

Such actions are without prejudice to the right of the patent owner in obtaining compensation according to the rules of civil law.

Article (40)

The owner of an invention patent may during an administrative or criminal action, obtain from the President of the Administrative Court an order that measures be taken to safeguard his rights, particularly for preparing a detailed description of the imitated goods or products as well as machines and instruments that have been used or were to be used in committing the offence, and the imported goods on their arrival from abroad and if desired seizing same provided that such a seizure shall be made only if the Plaintiff provides sufficient indemnity to compensate the Defendant if the lawsuit is rejected.

(February 22, 1994 Version)

The owner of an invention patent may obtain an order to apply the aforementioned procedures prior to lodging a civil or criminal action. In this case a lawsuit must be filed through the administrative channel, or directly or by filing a complaint to the Public Prosecutor within eight days -- exclusive of delays due to distance -- from the date of execution of the order, otherwise these procedures will be annulled ipso facto.

If necessary the order issued for execution of these measures may comprise the appointment of one or several experts to help the bailiff in its execution.

Article (41)

In an action before a Court, when the subject matter is a patent for manufacturing a new product or a similar product, the court shall have the authority to order the defendant to prove that the process used to manufacture the identical product is different from the patented process.

Article (42)

The Administrative Court or the Criminal Court may give judgement to confiscate the articles seized, or that will be seized, in order to deduct the price thereof from the amount of compensation or fine, or to dispose of them in any way the court deems fit. Likewise, the court may order, if necessary, their destruction.

The court may give judgement to execute all the preceding measures, even if the offender is acquitted for lack of proof of intentional offence.

The court may also order the publication of the judgement in one newspaper or more at the expense of the condemned person.

Article (43)

Offenses set forth in this law, as well as offenses specified in Law 57/1939 on Trademarks and Commercial Particulars and in Law 48/1941 on Check Fraud shall be considered offenses of similar degrees of seriousness in case of recurrence.

{ February 22, 1994 Version }

CHAPTER EIGHT

Final Rules

Article (44)

A committee will be formed by a decree from the concerned minister. This committee will study appeals on all the decisions taken by the Patent Office to implement the provisions of this law. This committee will also acquire all other duties assigned to it by this law.

The committee is chaired by one senior lawyer with experience in patents, in addition to a State Council Advisor chosen by the chairman of the committee and three other specialists as members.

The committee can seek help from experts in this field. The executive regulations set the rules controlling this committee, which is considered an administrative committee with jurisdiction, in addition to a committee secretariat.

Article (45)

Committee decision could be appealed before the Administrative Court of the State Council within 60 days from the date of notifying the concerned person. The Court should urgently rule on this appeal.

Article (46)

The executive regulations of this law shall embody provisions that warrant temporary protection of the inventions exhibited in national or international fairs that are held in Egypt or in one of the countries that grant Egypt similar treatment.

The concerned minister shall issue a decree determining these fairs.

{ February 22, 1994 Version }

Article (47)

Should an application for obtaining an invention patent be submitted in one of the countries granting Egypt similar treatment, the concerned person or the person to whom the right has been transferred to, may submit an application to the Patent Office for this invention. This application should be within the conditions laid down in this law. Also, this application should be submitted within one year from the date of submission in the foreign country and the application filing date will be considered to be the date of the earlier foreign application.

As an exception to the provisions of Article (3) of this law, the application for the patent shall not be affected by the publication of the description of the invention or its use or the submission of another application therefore during the period specified in the preceding paragraph.

Article (48)

The rights of the patentee shall not be affected by the use of the invention in land, sea and air means of transport belonging to countries granting Egypt similar treatment, in the event of their coming to Egypt temporarily or casually.

Article (49)

The employees of the Patent Office will not be allowed to submit personally or through others, applications to obtain invention patents except after the elapse of at least three years from the date of their leaving the service at the Office.

{ February 22, 1994 Version }

Article (50)

The provisions of this law shall be applied to all patent applications filed after the ratification of this law and to all patent applications filed under law Number 132 of 1949 that have not been granted yet.

Article (51)

The concerned minister will issue the executive regulations setting forth the provisions relative to the application of this law.

Article (52)

Concerned persons may demand the application of the provisions of international agreements related to industrial ownership to which Egypt is a party, if they are more favorable than the provisions of this law.

Appendix B
UPOV CONVENTION

**International Convention
for the
Protection of New Varieties of Plants**

of December 2, 1961

and

**Additional Act
of November 10, 1972**

and

**Revised Text
of October 23, 1978**



**International Union for the Protection of New Varieties of Plants
GENEVA 1979**

107

**International Convention
for the
Protection of New Varieties of Plants***
of December 2, 1961

CONTENTS

International Convention for the Protection of New Varieties of Plants of December 2, 1961	3
Additional Act of November 10, 1972, Amending the International Convention for the Protection of New Varieties of Plants	31
International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised at Geneva on November 10, 1972, and on October 23, 1978.	37

TABLE OF CONTENTS **

<i>Preamble</i>
<i>Article 1: Purpose of the Convention; Constitution of a Union; Seat of the Union</i>
<i>Article 2: Forms of Protection; Meaning of "Variety"</i>
<i>Article 3: National Treatment</i>
<i>Article 4: Botanical Genera and Species Which Must or May Be Protected; Reciprocity; Possibility of Declaring that Articles 2 and 3 of the Paris Convention for the Protection of Industrial Property Are Applicable</i>
<i>Article 5: Rights Protected; Scope of Protection</i>
<i>Article 6: Conditions Required for Protection</i>
<i>Article 7: Official Examination of New Varieties; Provisional Protection</i>
<i>Article 8: Period of Protection</i>
<i>Article 9: Restrictions in the Exercise of Rights Protected</i>
<i>Article 10: Nullity and Forfeiture of the Rights Protected</i>
<i>Article 11: Free Choice of the Member State in Which the First Application is Filed; Application in Other Member States; Independence of Protection in Different Member States</i>
<i>Article 12: Right of Priority</i>
<i>Article 13: Denomination of New Varieties of Plants</i>
<i>Article 14: Protection Independent of Measures Regulating Production, Certification and Marketing</i>
<i>Article 15: Organs of the Union</i>

* Official English translation.

** This Table of Contents is added for the convenience of the reader. It does not appear in the original (French) text of the Convention.

110

- Article 16: Composition of the Council; Votes*
Article 17: Observers in Meetings of the Council
Article 18: Officers of the Council
Article 19: Meetings of the Council
Article 20: Rules of Procedure of the Council; Administrative and Financial Regulations of the Union
Article 21: Duties of the Council
Article 22: Majorities Required for Decisions of the Council
Article 23: Tasks of the Office of the Union; Responsibilities of the Secretary-General; Appointment of Staff
Article 24: Supervisory Function of the Swiss Government
Article 25: Cooperation with the Unions Administered by IIRPI
Article 26: Finances
Article 27: Revision of the Convention
Article 28: Languages To Be Used by the Office and in the Council
Article 29: Special Agreements for the Protection of New Varieties of Plants
Article 30: Implementation of the Convention on the Domestic Level; Special Agreements on the Joint Utilisation of Examination Services
Article 31: Signature and Ratification; Entry Into Force
Article 32: Accession; Entry Into Force
Article 33: Communications Indicating the Genera and Species Eligible for Protection
Article 34: Territories
Article 35: Transitional Limitation of the Requirement of Novelty
Article 36: Transitional Rules Concerning the Relationship Between Variety Denominations and Trade Marks
Article 37: Preservation of Existing Rights
Article 38: Settlement of Disputes
Article 39: Reservations
Article 40: Duration and Denunciation of the Convention; Discontinuation of the Application of the Convention to Territories
Article 41: Copies of the Convention; Language and Official Translations of the Convention
Annex: List Referred to in Paragraph (3) of Article 4

THE CONTRACTING STATES,

Convinced of the importance attaching to the protection of new varieties of plants not only for the development of agriculture in their territory but also for safeguarding the interests of breeders,

Conscious of the special problems arising from the recognition and protection of the right of the creator in this field and particularly of the limitations that the requirements of the public interest may impose on the free exercise of such a right,

Deeming it highly desirable that these problems to which very many States rightly attach importance should be resolved by each of them in accordance with uniform and clearly defined principles,

Anxious to reach an agreement on these principles to which other States having the same interests may be able to adhere,

Have agreed as follows:

Article 1

[Purpose of the Convention; Constitution of a Union; Seat of the Union]¹

(1) The purpose of this Convention is to recognise and to ensure to the breeder of a new plant variety, or to his successor in title, a right the content and the conditions of exercise of which are defined hereinafter.

(2) The States parties to this Convention, hereinafter referred to as member States of the Union, constitute a Union for the Protection of New Varieties of Plants.

(3) The seat of the Union and its permanent organs shall be at Geneva.

Article 2

[Forms of Protection; Meaning of "Variety"]

(1) Each member State of the Union may recognise the right of the breeder provided for in this Convention by the

¹ Articles have been given titles to facilitate their identification. There are no titles in the signed (French) text.

grant either of a special title of protection or of a patent. Nevertheless, a member State of the Union whose national law admits of protection under both these forms may provide only one of them for one and the same botanical genus or species.

(2) For the purposes of this Convention, the word "variety" applies to any cultivar, clone, line, stock or hybrid which is capable of cultivation and which satisfies the provisions of subparagraphs (1)(c) and (d) of Article 6.

Article 3

[National Treatment]

(1) Without prejudice to the rights specially provided for in this Convention, natural and legal persons resident or having their headquarters in one of the member States of the Union shall, in so far as the recognition and protection of the breeder's right are concerned, enjoy in the other member States of the Union the same treatment as is accorded or may hereafter be accorded by the respective laws of such States to their own nationals, provided that such persons comply with the conditions and formalities imposed on such nationals.

(2) Nationals of member States of the Union not resident or having their headquarters in one of those States shall likewise enjoy the same rights provided that they fulfil such obligations as may be imposed on them for the purpose of enabling the new varieties which they have bred to be examined and the multiplication of such varieties to be controlled.

Article 4

[Botanical Genera and Species Which Must or May Be Protected; Reciprocity; Possibility of Declaring that Articles 2 and 3 of the Paris Convention for the Protection of Industrial Property Are Applicable]

(1) This Convention may be applied to all botanical genera and species.

(2) The member States of the Union undertake to adopt all measures necessary for the progressive application of the

provisions of this Convention to the largest possible number of botanical genera and species.

(3) Each member State of the Union shall, on the entry into force of this Convention in its territory, apply the provisions of the Convention to at least five of the genera named in the list annexed to the Convention.

Each member State further undertakes to apply the said provisions to the other genera in the list, within the following periods from the date of the entry into force of the Convention in its territory:

(a) within three years, to at least two genera;

(b) within six years, to at least four genera;

(c) within eight years, to all the genera named in the list.

(4) Any member State of the Union protecting a genus or species not included in the list shall be entitled either to limit the benefit of such protection to the nationals of member States of the Union protecting the same genus or species and to natural and legal persons resident or having their headquarters in any of those States, or to extend the benefit of such protection to the nationals of other member States of the Union or of the member States of the Paris Union for the Protection of Industrial Property and to natural and legal persons resident or having their headquarters in any of those States.

(5) Any member State of the Union may, on signing this Convention or on depositing its instrument of ratification or accession, declare that, with regard to the protection of new varieties of plants, it will apply Articles 2 and 3 of the Paris Convention for the Protection of Industrial Property.

Article 5

[Rights Protected; Scope of Protection]

(1) The effect of the right granted to the breeder of a new plant variety or his successor in title is that his prior authorisation shall be required for the production, for purposes of

commercial marketing, of the reproductive or vegetative propagating material, as such, of the new variety, and for the offering for sale or marketing of such material. Vegetative propagating material shall be deemed to include whole plants. The breeder's right shall extend to ornamental plants or parts thereof normally marketed for purposes other than propagation when they are used commercially as propagating material in the production of ornamental plants or cut flowers.

(2) The authorisation given by the breeder or his successor in title may be made subject to such conditions as he may specify.

(3) Authorisation by the breeder or his successor in title shall not be required either for the utilisation of the new variety as an initial source of variation for the purpose of creating other new varieties or for the marketing of such varieties. Such authorisation shall be required, however, when the repeated use of the new variety is necessary for the commercial production of another variety.

(4) Any member State of the Union may, either under its own law or by means of special agreements under Article 29, grant to breeders, in respect of certain botanical genera or species, a more extensive right than that set out in paragraph (1) of this Article, extending in particular to the marketed product. A member State of the Union which grants such a right may limit the benefit of it to the nationals of member States of the Union which grant an identical right and to natural and legal persons resident or having their headquarters in any of those States.

Article 6

[Conditions Required for Protection]

(1) The breeder of a new variety or his successor in title shall benefit from the protection provided for in this Convention when the following conditions are satisfied:

(a) Whatever may be the origin, artificial or natural, of the initial variation from which it has resulted, the new variety must be clearly distinguishable by one or more important characteristics from any other variety whose existence is a matter of common knowledge at the time when protection is applied for. Common knowledge may be established by reference to various factors such as: cultivation or marketing already in progress, entry in an official register of varieties already made or in the course of being made, inclusion in a reference collection or precise description in a publication.

A new variety may be defined and distinguished by morphological or physiological characteristics. In all cases, such characteristics must be capable of precise description and recognition.

(b) The fact that a variety has been entered in trials, or has been submitted for registration or entered in an official register, shall not prejudice the breeder of such variety or his successor in title.

At the time of the application for protection in a member State of the Union, the new variety must not have been offered for sale or marketed, with the agreement of the breeder or his successor in title, in the territory of that State, or for longer than four years in the territory of any other State.

(c) The new variety must be sufficiently homogeneous, having regard to the particular features of its sexual reproduction or vegetative propagation.

(d) The new variety must be stable in its essential characteristics, that is to say, it must remain true to its description after repeated reproduction or propagation or, where the breeder has defined a particular cycle of reproduction or multiplication, at the end of each cycle.

(e) The new variety shall be given a denomination in accordance with the provisions of Article 13.

(2) Provided that the breeder or his successor in title shall have complied with the formalities provided for by the national law of each country, including the payment of fees, the grant of protection in respect of a new variety may not be made subject to conditions other than those set forth above.

Article 7

[Official Examination of New Varieties; Provisional Protection]

(1) Protection shall be granted only after examination of the new plant variety in the light of the criteria defined in Article 6. Such examination shall be adapted to each botanical genus or species having regard to its normal manner of reproduction or multiplication.

(2) For the purposes of such examination, the competent authorities of each country may require the breeder or his successor in title to furnish all the necessary information, documents, propagating material or seeds.

(3) During the period between the filing of the application for protection of a new plant variety and the decision thereon, any member State of the Union may take measures to protect the breeder or his successor in title against wrongful acts by third parties.

Article 8

[Period of Protection]

(1) The right conferred on the breeder of a new plant variety or his successor in title shall be granted for a limited period. This period may not be less than fifteen years. For plants such as vines, fruit trees and their rootstocks, forest trees and ornamental trees, the minimum period shall be eight years.

(2) The period of protection in a member State of the Union shall run from the date of the issue of the title of protection.

(3) Each member State of the Union may adopt longer periods than those indicated above and may fix different periods for some classes of plants, in order to take account, in particular, of the requirements of regulations concerning the production and marketing of seeds and propagating material.

Article 9

[Restrictions in the Exercise of Rights Protected]

The free exercise of the exclusive right accorded to the breeder or his successor in title may not be restricted otherwise than for reasons of public interest.

When any such restriction is made in order to ensure the widespread distribution of new varieties, the member State of the Union concerned shall take all measures necessary to ensure that the breeder or his successor in title receives equitable remuneration.

Article 10

[Nullity and Forfeiture of the Rights Protected]

(1) The right of the breeder shall be declared null and void, in accordance with the provisions of the national law of each member State of the Union, if it is established that the conditions laid down in subparagraphs (a) and (b) of paragraph (1) of Article 6 were not effectively complied with at the time when the title of protection was issued.

(2) The breeder or his successor in title shall forfeit his right when he is no longer in a position to provide the competent authority with reproductive or propagating material capable of producing the new variety with its morphological and physiological characteristics as defined when the right was granted.

(3) The right of the breeder or his successor in title may become forfeit if:

(a) after being requested to do so and within a prescribed period, he does not provide the competent authority

with the reproductive or propagating material, the documents and the information deemed necessary for checking the new variety, or he does not allow inspection of the measures which have been taken for the maintenance of the variety; or

(b) he has failed to pay within the prescribed period such fees as may be payable to keep his rights in force.

(4) The right of the breeder may not be annulled and the right of the breeder or his successor in title may not become forfeit except on the grounds set out in this Article.

Article 11

[Free Choice of the Member State in Which the First Application is Filed;
Application in Other Member States;
Independence of Protection in Different Member States]

(1) The breeder or his successor in title may choose the member State of the Union in which he wishes to make his first application for protection of his right in respect of a new variety.

(2) The breeder or his successor in title may apply to other member States of the Union for protection of his right without waiting for the issue to him of a title of protection by the member State of the Union in which he made his first application.

(3) The protection applied for in different member States of the Union by natural or legal persons entitled to benefit under this Convention shall be independent of the protection obtained for the same new variety in other States whether or not such States are members of the Union.

Article 12

[Right of Priority]

(1) Any breeder or his successor in title who has duly filed an application for protection of a new variety in one of

the member States of the Union shall, for the purposes of filing in the other member States of the Union, enjoy a right of priority for a period of twelve months. This period shall run from the date of filing of the first application. The day of filing shall not be included in such period.

(2) To benefit from the provisions of the preceding paragraph, the further filing must include an application for protection of the new variety, a claim in respect of the priority of the first application and, within a period of three months, a copy of the documents which constitute that application, certified to be a true copy by the authority which received it.

(3) The breeder or his successor in title shall be allowed a period of four years after the expiration of the period of priority in which to furnish, to the member State of the Union with which he has filed an application for protection in accordance with the terms of paragraph (2), the additional documents and material required by the laws and regulations of that State.

(4) Such matters as the filing of another application or the publication or use of the subject of the application, occurring within the period provided for in paragraph (1), shall not constitute grounds for objection to an application filed in accordance with the foregoing conditions. Such matters may not give rise to any right in favour of a third party or to any right of personal possession.

Article 13

[Denomination of New Varieties of Plants]

(1) A new variety shall be given a denomination.

(2) Such denomination must enable the new variety to be identified; in particular, it may not consist solely of figures.

The denomination must not be liable to mislead or to cause confusion concerning the characteristics, value or identity of the new variety or the identity of the breeder. In particular, it must be different from every denomination which

115

designates, in any member State of the Union, existing varieties of the same or a closely related botanical species.

(3) The breeder or his successor in title may not submit as the denomination of a new variety either a designation in respect of which he enjoys the protection, in a member State of the Union, accorded to trade marks, and which applies to products which are identical or similar within the meaning of trade mark law, or a designation liable to cause confusion with such a mark, unless he undertakes to renounce his right to the mark as from the registration of the denomination of the new variety.

If the breeder or his successor in title nevertheless submits such a denomination, he may not, as from the time when it is registered, continue to assert his right to the trade mark in respect of the above-mentioned products.

(4) The denomination of the new variety shall be submitted by the breeder or his successor in title to the authority referred to in Article 30. If it is found that such denomination does not satisfy the requirements of the preceding paragraphs, the authority shall refuse to register it and shall require the breeder or his successor in title to propose another denomination within a prescribed period. The denomination shall be registered at the same time as the title of protection is issued in accordance with the provisions of Article 7.

(5) A new variety must be submitted in member States of the Union under the same denomination. The competent authority for the issue of the title of protection in each member State of the Union shall register the denomination so submitted, unless it considers that denomination unsuitable in that State. In this case, it may require the breeder or his successor in title to submit a translation of the original denomination or another suitable denomination.

(6) When the denomination of a new variety is submitted to the competent authority of a member State of the Union,

the latter shall communicate it to the office of the Union referred to in Article 15, which shall notify it to the competent authorities of the other member States of the Union. Any member State of the Union may address its objections, if any, through the said Office, to the State which communicated the denomination.

The competent authority of each member State of the Union shall notify each registration of the denomination of a new variety and each refusal of registration to the Office of the Union, which shall inform the competent authorities of the other member States of the Union. Registrations shall also be communicated by the Office to the member States of the Paris Union for the Protection of Industrial Property.

(7) Any person in a member State of the Union who offers for sale or markets reproductive or vegetative propagating material of a new variety shall be obliged to use the denomination of that new variety, even after the expiration of the protection of that variety, in so far as, in accordance with the provisions of paragraph (10), prior rights do not prevent such use.

(8) From the date of issue of a title of protection to a breeder or his successor in title in a member State of the Union:

(a) the denomination of the new variety may not be used, in any member State of the Union, as the denomination of another variety of the same or a closely related botanical species;

(b) the denomination of the new variety shall be regarded as the generic name for that variety. Consequently, subject to the provisions of paragraph (10), no person may, in any member State of the Union, apply for the registration of, or obtain protection as a trade mark for, a denomination identical to or liable to cause confusion with such denomination, in respect of identical or similar products within the meaning of trade mark law.

(9) It shall be permitted, in respect of the same product, to add a trade mark to the denomination of the new variety.

(10) Prior rights of third parties in respect of signs used to distinguish their products or enterprises shall not be affected. If, by reason of a prior right, the use of the denomination of a new variety is forbidden to a person who, in accordance with the provisions of paragraph (7), is obliged to use it, the competent authority shall, if need be, require the breeder or his successor in title to submit another denomination for the new variety.

Article 14

[Protection Independent of Measures Regulating Production, Certification and Marketing]

(1) The right accorded to the breeder in pursuance of the provisions of this Convention shall be independent of the measures taken by each member State of the Union to regulate the production, certification and marketing of seeds and propagating material.

(2) However, such measures shall, as far as possible, avoid hindering the application of the provisions of this Convention.

Article 15

[Organs of the Union]

The permanent organs of the Union shall be:

- (a) the Council;
- (b) the Secretariat General, entitled the Office of the International Union for the Protection of New Varieties of Plants. That Office shall be under the high authority of the Swiss Confederation.

Article 16

[Composition of the Council; Votes]

(1) The Council shall consist of representatives of the member States of the Union. Each member State of the Union

shall appoint one representative to the Council and an alternate.

(2) Representatives or alternates may be accompanied by assistants or advisers.

(3) Each member State of the Union shall have one vote in the Council.

Article 17

[Observers in Meetings of the Council]

(1) States which have signed but not yet ratified this Convention shall be invited as observers to meetings of the Council. Their representatives shall be entitled to speak in a consultative capacity.

(2) Other observers or experts may also be invited to such meetings.

Article 18

[Officers of the Council]

(1) The Council shall elect a President and a first Vice-President from among its members. It may elect other Vice-Presidents. The first Vice-President shall take the place of the President if the latter is unable to officiate.

(2) The President shall hold office for three years.

Article 19

[Meetings of the Council]

(1) Meetings of the Council shall be convened by its President.

(2) A regular session of the Council shall be held annually. In addition, the President may convene the Council at his discretion; he shall convene it, within a period of three months, if a third of the member States of the Union so request.

117

Article 20

[Rules of Procedure of the Council;
Administrative and Financial Regulations of the Union]

- (1) The Council shall lay down its rules of procedure.
- (2) The Council shall adopt the administrative and financial regulations of the Union, after having consulted the Government of the Swiss Confederation. The Government of the Swiss Confederation shall be responsible for ensuring that the regulations are carried out.
- (3) A majority of three-quarters of the member States of the Union shall be required for the adoption of such rules and regulations and any amendments to them.

Article 21

[Duties of the Council]

The duties of the Council shall be to:

- (a) study appropriate measures to safeguard the interests and to encourage the development of the Union;
- (b) examine the annual report on the activities of the Union and lay down the programme for its future work;
- (c) give to the Secretary-General, whose functions are set out in Article 23, all necessary directions, including those concerning relations with national authorities;
- (d) examine and approve the budget of the Union and fix the contribution of each member State in accordance with the provisions of Article 26;
- (e) examine and approve the accounts presented by the Secretary-General;
- (f) fix, in accordance with the provisions of Article 27, the date and place of the conferences referred to in that Article and take the measures necessary for their preparation;
- (g) make proposals to the Government of the Swiss Confederation concerning the appointment of the Secretary-General and senior officials; and

- (h) in general, take all necessary decisions to ensure the efficient functioning of the Union.

Article 22

[Majorities Required for Decisions of the Council]

The Council's decisions shall be taken by a simple majority of the members present, except in the cases provided for in Articles 20, 27, 28 and 32, and for the vote on the budget and the fixing of the contributions of each member State. In these last two cases, the majority required shall be three-quarters of the members present.

Article 23

[Tasks of the Office of the Union;
Responsibilities of the Secretary-General; Appointment of Staff]

(1) The Office of the Union shall have the task of carrying out all the duties and tasks entrusted to it by the Council. It shall be under the direction of the Secretary-General.

(2) The Secretary-General shall be responsible to the Council; he shall be responsible for carrying out the decisions of the Council.

He shall submit the budget for the approval of the Council and shall be responsible for its implementation.

He shall make an annual report to the Council on his administration and a report on the activities and financial position of the Union.

(3) The Secretary-General and the senior officials shall be appointed, on the proposal of the Council, by the Government of the Swiss Confederation, which shall determine the terms of their appointment.

The terms of service and the remuneration of other grades in the Office of the Union shall be determined by the administrative and financial regulations.

Article 24

[Supervisory Function of the Swiss Government]

The Government of the Swiss Confederation shall supervise the expenditure and accounts of the Office of the International Union for the Protection of New Varieties of Plants. It shall submit an annual report on its supervisory function to the Council.

Article 25

[Cooperation with the Unions Administered by UIRPI]

The procedures for technical and administrative cooperation between the Union for the Protection of New Varieties of Plants and the Unions administered by the United International Bureaux for the Protection of Industrial, Literary and Artistic Property shall be governed by rules established by the Government of the Swiss Confederation in agreement with the Unions concerned.

Article 26

[Finances]

- (1) The expenses of the Union shall be met from:
 - (a) annual contributions of member States of the Union;
 - (b) payments received for services rendered; and
 - (c) miscellaneous receipts.
- (2) For the purpose of determining the amount of their annual contributions, the member States of the Union shall be divided into three classes:

First class	five units
Second class	three units
Third class	one unit

Each member State of the Union shall contribute in proportion to the number of units of the class to which it belongs.

(3) For each budgetary period, the value of the unit of contribution shall be obtained by dividing the total expenditure to be met from the contributions of member States by the total number of units.

(4) Each member State of the Union shall indicate, on joining the Union, the class in which it wishes to be placed. Any member State of the Union may, however, subsequently declare that it wishes to be placed in another class.

Such declaration must be made at least six months before the end of the financial year preceding that in which the change of class is to take effect.

Article 27

[Revision of the Convention]

(1) This Convention shall be reviewed periodically with a view to the introduction of amendments designed to improve the working of the Union.

(2) For this purpose, conferences shall be held every five years, unless the Council, by a majority of five-sixths of the members present, considers that the convening of such a conference should be brought forward or postponed.

(3) The proceedings of a conference shall be effective only if at least half of the member States of the Union are represented at it.

A majority of five-sixths of the member States of the Union represented at the conference shall be required for the adoption of a revised text of the Convention.

(4) The revised text shall enter into force, in respect of member States of the Union which have ratified it, when it has been ratified by five-sixths of the member States of the Union. It shall enter into force thirty days after the deposit of the last of the instruments of ratification. If, however, a majority of five-sixths of the member States of the Union represented at the conference considers that the revised text

119

includes amendments of such a kind as to preclude, for member States of the Union which do not ratify the revised text, the possibility of continuing to be bound by the former text in respect of the other member States of the Union, the revised text shall enter into force two years after the deposit of the last of the instruments of ratification. In such case, the former text shall, from the date of such entry into force, cease to bind the States which have ratified the revised text.

Article 28

[Languages To Be Used by the Office and in the Council]

(1) The English, French and German languages shall be used by the Office of the Union in carrying out its duties.

(2) Meetings of the Council and of revision conferences shall be held in the three languages.

(3) If the need arises, the Council may decide, by a majority of three-quarters of the members present, that further languages shall be used.

Article 29

[Special Agreements for the Protection of New Varieties of Plants]

Member States of the Union reserve the right to conclude among themselves special agreements for the protection of new varieties of plants, in so far as such agreements do not contravene the provisions of this Convention.

Member States of the Union which have not taken part in making such agreements shall be allowed to accede to them at their request.

Article 30

[Implementation of the Convention on the Domestic Level;
Special Agreements on the Joint Utilisation of Examination Services]

(1) Each member State of the Union shall undertake to adopt all measures necessary for the application of this Convention.

- In particular, each member State shall undertake to:
- (a) ensure to nationals of the other member States of the Union appropriate legal remedies for the effective defence of the rights provided for in this Convention;
 - (b) set up a special authority for the protection of new varieties of plants or to entrust their protection to an existing authority; and
 - (c) ensure that the public is informed of matters concerning such protection, including as a minimum the periodical publication of the list of titles of protection issued.

(2) Special agreements may also be concluded between member States of the Union, with a view to the joint utilisation of the services of the authorities entrusted with the examination of new varieties in accordance with the provisions of Article 7 and with assembling the necessary reference collections and documents.

(3) It shall be understood that, on depositing its instrument of ratification or accession, each member State must be in a position, under its own domestic law, to give effect to the provisions of this Convention.

Article 31

[Signature and Ratification; Entry Into Force]

(1) This Convention shall be open for signature until December 2, 1962, by States represented at the Paris Conference for the Protection of New Varieties of Plants.

(2) This Convention shall be subject to ratification; instruments of ratification shall be deposited with the Government of the French Republic, which shall notify such deposit to the other signatory States.

(3) When the Convention has been ratified by at least three States, it shall enter into force in respect of those States

thirty days after the deposit of the third instrument of ratification. It shall enter into force, in respect of each State which ratifies thereafter, thirty days after the deposit of its instrument of ratification.

Article 32

[Accession; Entry into Force]

(1) This Convention shall be open to accession by non-signatory States in accordance with the provisions of paragraphs (3) and (4) of this Article.

(2) Applications for accession shall be addressed to the Government of the Swiss Confederation, which shall notify them to the member States of the Union.

(3) Applications for accession shall be considered by the Council having particular regard to the provisions of Article 30.

Having regard to the nature of the decision to be taken and to the difference in the rule adopted for revision conferences, accession by a non-signatory State shall be accepted if a majority of four-fifths of the members present vote in favour of its application.

Three-quarters of the member States of the Union must be represented when the vote is taken.

(4) In the case of a favourable decision, the instrument of accession shall be deposited with the Government of the Swiss Confederation, which shall notify the member States of the Union of such deposit.

Accession shall take effect thirty days after the deposit of such instrument.

Article 33

[Communications Indicating the Genera and Species Eligible for Protection]

(1) When ratifying this Convention, in the case of a signatory State, or when submitting an application for accession, in

the case of any other State, each State shall give, in the first case to the Government of the French Republic and in the second case to the Government of the Swiss Confederation, the list of genera or species in respect of which it undertakes to apply the provisions of the Convention in accordance with the requirements of Article 4. In addition, it shall specify, in the case of genera or species referred to in paragraph (4) of that Article, whether it intends to avail itself of the option of limitation available under that provision.

(2) Each member State of the Union which subsequently decides to apply the provisions of this Convention to other genera or species shall communicate the same information as is required under paragraph (1) of this Article to the Government of the Swiss Confederation and to the Office of the Union, at least thirty days before its decision takes effect.

(3) The Government of the French Republic or the Government of the Swiss Confederation, as the case may be, shall immediately communicate to all the member States of the Union the information referred to in paragraphs (1) and (2) of this Article.

Article 34

[Territories]

(1) Every member State of the Union, either on signing or on ratifying or acceding to this Convention, shall declare whether the Convention applies to all or to a part of its territories or to one or more or to all of the States or territories for which it is responsible.

This declaration may be supplemented at any time thereafter by notification to the Government of the Swiss Confederation. Such notification shall take effect thirty days after it has been received by that Government.

(2) The Government which has received the declarations or notifications referred to in paragraph (1) of this Article shall communicate them to all member States of the Union.

121

Article 35

[Transitional Limitation of the Requirement of Novelty]

Notwithstanding the provisions of Article 6, any member State of the Union may, without thereby creating an obligation for other member States of the Union, limit the requirement of novelty laid down in that Article, with regard to varieties of recent creation existing at the date of entry into force of this Convention in respect of such State.

Article 36

[Transitional Rules Concerning the Relationship Between Variety Denominations and Trade Marks]

(1) If, at the date of entry into force of this Convention in respect of a member State of the Union, the breeder of a new variety protected in that State, or his successor in title, enjoys in that State the protection of the denomination of that variety as a trade mark for identical or similar products within the meaning of trade mark law, he may either renounce the protection in respect of the trade mark or submit a new denomination for the variety in the place of the previous denomination. If a new denomination has not been submitted within a period of six months, the breeder or his successor in title may not continue to assert his right to the trade mark for the above-mentioned products.

(2) If a new denomination is registered for the variety, the breeder or his successor in title may not prohibit the use of the previous denomination by persons obliged to use it before the entry into force of this Convention, until a period of one year has expired from the publication of the registration of the new denomination.

Article 37

[Preservation of Existing Rights]

This Convention shall not affect existing rights under the national laws of member States of the Union or under agreements concluded between such States.

Article 38

[Settlement of Disputes]

(1) Any dispute between two or more member States of the Union concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of one of the States concerned, be submitted to the Council, which shall endeavour to bring about agreement between the member States concerned.

(2) If such agreement is not reached within six months from the date when the dispute was submitted to the Council, the dispute shall be referred to an arbitration tribunal at the request of one of the parties concerned.

(3) The tribunal shall consist of three arbitrators.

Where two member States are parties to a dispute, each of those States shall appoint an arbitrator.

Where more than two member States are parties to a dispute, two of the arbitrators shall be appointed by agreement among the States concerned.

If the States concerned have not appointed the arbitrators within a period of two months from the date on which the request for convening the tribunal was notified to them by the Office of the Union, any of the member States concerned may request the President of the International Court of Justice to make the necessary appointments.

In all cases, the third arbitrator shall be appointed by the President of the International Court of Justice.

If the President is a national of one of the member States parties to the dispute, the Vice-President shall make the appointments referred to above, unless he is himself also a national of one of the member States parties to the dispute. In this last case, the appointments shall be made by the member of the Court who is not a national of one of the member States parties to the dispute and who has been selected by the President to make the appointments.

(4) The award of the tribunal shall be final and binding on the member States concerned.

(5) The tribunal shall determine its own procedure, unless the member States concerned agree otherwise.

(6) Each of the member States parties to the dispute shall bear the costs of its representation before the arbitration tribunal; other costs shall be borne in equal parts by each of the States.

Article 39

[Reservations]

Signature and ratification of and accession to this Convention shall not be subject to any reservation.

Article 40

[Duration and Denunciation of the Convention;
Discontinuation of the Application of the Convention to Territories]

(1) This Convention shall be of unlimited duration.

(2) Subject to the provisions of paragraph (4) of Article 27, if a member State of the Union denounces this Convention, such denunciation shall take effect one year after the date on which notification of denunciation is made by the Government of the Swiss Confederation to the other member States of the Union.

(3) Any member State may at any time declare that the Convention shall cease to apply to certain of its territories or to States or territories in respect of which it has made a declaration in accordance with the provisions of Article 34. Such declaration shall take effect one year after the date on which notification thereof is made by the Government of the Swiss Confederation to the other member States of the Union.

(4) Such denunciations and declarations shall not affect rights acquired by reason of this Convention prior to the expiration of the time limit laid down in paragraphs (2) and (3) of this Article.

Article 41

[Copies of the Convention;
Language and Official Translations of the Convention]

(1) This Convention is drawn up in a single copy in the French language. That copy is deposited in the archives of the Government of the French Republic.

(2) A certified true copy shall be forwarded by that Government to the Governments of all signatory States.

(3) Official translations of this Convention shall be made in the Dutch, English, German, Italian and Spanish languages.

ANNEX

List referred to in Article 4, paragraph (3)

Species to be protected in each genus

1. Wheat *Triticum aestivum* L. *ssp. vulgare*
(VILL., HOST) MAC KAY
Triticum durum DESF.
2. Barley *Hordeum vulgare* L. *s. lat.*
3. Oats *Avena sativa* L.
Avena byzantina C. KOCH
or Rice *Oryza sativa* L.
4. Maize *Zea Mays* L.
5. Potato *Solanum tuberosum* L.
6. Peas *Pisum sativum* L.
7. Beans *Phaseolus vulgaris* L.
Phaseolus coccineus L.
8. Lucerne *Medicago sativa* L.
Medicago varia MARTYN
9. Red Clover *Trifolium pratense* L.
10. Ryegrass *Lolium sp.*
11. Lettuce *Lactuca sativa* L.
12. Apples *Malus domestica* BORKH.
13. Roses *Rosa hort.*
or Carnations *Dianthus caryophyllus* L.

If two optional genera are chosen — numbers 3 or 13 above — they shall be counted as one genus only.

**Additional Act
of November 10, 1972,
Amending the International Convention
for the Protection of New Varieties of Plants***

TABLE OF CONTENTS**

Preamble

Article I: Amended Version of Article 22 of the Convention
(Majorities Required for Decisions of the Council)

Article II: Amended Version of Article 26 of the Convention
(Finances)

Article III: Applicability of Paragraph (6) of the Amended Version
of Article 26 of the Convention

Article IV: Contribution Classes of Member States

Article V: Signature; Ratification; Accession

Article VI: Entry Into Force

Article VII: Reservations

Article VIII: Original Copy of the Additional Act; Language and Of-
ficial Translations of the Additional Act; Notifications;
Registration of the Additional Act

* Official English translation.

** This Table of Contents is added for the convenience of the reader.
It does not appear in the original (French) text of the Additional Act.

THE CONTRACTING STATES,

Considering that in the light of the experience gained since the entry into force of the International Convention for the Protection of New Varieties of Plants, of December 2, 1961, the system of contributions of member States of the Union provided for by that Convention does not allow for sufficient differentiation among the member States of the Union as to the share in the total of the contributions that should be allotted to each of them,

Considering further that it is desirable to amend the provisions of that Convention on the contributions of member States of the Union and, in the event of arrears in the payment of such contributions, on the right to vote,

Having regard to the provisions of Article 27 of the said Convention,

Have agreed as follows:

Article I

[Amended Version of Article 22 of the Convention (Majorities Required for Decisions of the Council)]¹

Article 22 of the International Convention for the Protection of New Varieties of Plants, of December 2, 1961 (hereinafter referred to as the Convention), shall be replaced by the following text:

" Decisions of the Council shall be taken by a simple majority of the members present, except in the cases provided for in Articles 20, 27, 28 and 32, for the vote on the budget, for the fixing of the contributions of each member State of the Union, for the faculty provided for in paragraph (5) of Article 26 concerning payment of one-half of the contribution corresponding to Class V and for any decision regarding voting rights under paragraph (6) of Article 26. In these last four cases, the majority required shall be three-quarters of the members present. "

¹ Articles have been given titles to facilitate their identification. There are no titles in the signed (French) text.

Article II

[Amended Version of Article 26 of the Convention (Finances)]

Article 26 of the Convention shall be replaced by the following text:

" (1) The expenses of the Union shall be met from:
(a) annual contributions of member States of the Union;
(b) payments received for services rendered;
(c) miscellaneous receipts.

" (2) For the purpose of determining the amounts of their annual contributions, the member States of the Union shall be divided into five classes:

Class I	5 units
Class II	4 units
Class III	3 units
Class IV	2 units
Class V	1 unit

" Each member State of the Union shall contribute in proportion to the number of units of the class to which it belongs.

" (3) For each budgetary period, the value of the unit of contribution shall be obtained by dividing the total expenditure to be met from the contributions of member States of the Union by the total number of units.

" (4) Each member State of the Union shall indicate, on joining the Union, the class in which it wishes to be placed. Any member State of the Union may, however, subsequently declare that it wishes to be placed in another class.

" Such declaration must be addressed to the Secretary-General of the Union at least six months before the end of the financial year preceding that in which the change of class is to take effect.

" (5) At the request of a member State of the Union or of a State applying for accession to the Convention according to Article 32 and indicating the wish to be placed in

Class V, the Council may, in order to take account of exceptional circumstances, decide to allow such State to pay only one-half of the contribution corresponding to Class V. Such decision will stand until the State concerned waives the faculty granted or declares that it wishes to be placed in another class or until the Council revokes its decision.

" (6) A member State of the Union which is in arrears in the payment of its contributions may not exercise its right to vote in the Council if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years, but it shall not be relieved of its obligations under this Convention, nor shall it be deprived of any other rights thereunder. However, the Council may allow such a State to continue to exercise its right to vote if, and as long as, the Council is satisfied that the delay in payment is due to exceptional and unavoidable circumstances. "

Article III

[Applicability of Paragraph (6) of the Amended Version of Article 26 of the Convention]

The provisions of paragraph (6) of Article 26 shall apply only if all member States of the Union have ratified or acceded to this Additional Act.

Article IV

[Contribution Classes of Member States]

Member States of the Union shall be placed in the class under this Additional Act which contains the same number of units as the class they have chosen under the Convention, unless, at the moment of depositing their instrument of ratification or accession, they express the wish to be placed in another class under this Additional Act.

Article V

[Signature; Ratification; Accession]

(1) This Additional Act shall be open for signature until April 1, 1973, by member States of the Union and by signatory States of the Convention.

(2) This Additional Act shall be subject to ratification.

(3) This Additional Act shall be open to accession by non-signatory States in accordance with the provisions of paragraphs (2) and (3) of Article 32 of the Convention.

(4) After the entry into force of this Additional Act, a State may accede to the Convention only if it accedes to this Additional Act at the same time.

(5) Instruments of ratification of or accession to this Additional Act by States which have ratified the Convention or which ratify it at the same time as they ratify or accede to this Additional Act shall be deposited with the Government of the French Republic. Instruments of ratification of or accession to this Additional Act by States which have acceded to the Convention or which accede to it at the same time as they ratify or accede to this Additional Act shall be deposited with the Government of the Swiss Confederation.

Article VI

[Entry into Force]

(1) This Additional Act shall enter into force in accordance with the first and second sentences of paragraph (4) of Article 27 of the Convention.

(2) With respect to any State which deposits its instrument of ratification of or accession to this Additional Act after the date of its entry into force, this Additional Act shall enter into force thirty days after the deposit of such instrument.

Article VII

[Reservations]

No reservations to this Additional Act are permitted.

Article VIII

[Original Copy of the Additional Act; Language and Official Translations of the Additional Act; Notifications; Registration of the Additional Act]

(1) This Additional Act shall be signed in a single original in the French language, which shall be deposited in the archives of the Government of the French Republic.

(2) Official translations of this Additional Act shall be established by the Secretary-General of the Union, after consultation with the interested Governments, in Dutch, English, German, Italian and Spanish, and in such other languages as the Council of the Union may designate. In the latter event, the Secretary-General of the Union shall also establish an official translation of the Convention in the language so designated.

(3) The Secretary-General of the Union shall transmit two copies, certified by the Government of the French Republic, of the signed text of this Additional Act to the Governments of the States referred to in paragraph (1) of Article V, and on request to the Government of any other State.

(4) The Secretary-General of the Union shall register this Additional Act with the Secretariat of the United Nations.

(5) The Government of the French Republic shall notify the Secretary-General of the Union of the signatures of this Additional Act and of the deposit with that Government of instruments of ratification or accession. The Government of the Swiss Confederation shall notify the Secretary-General of the Union of the deposit with that Government of instruments of ratification or accession.

(6) The Secretary-General of the Union shall inform the member States of the Union and the signatory States of the Convention of the notifications received pursuant to the preceding paragraph and of the entry into force of this Additional Act.

International Convention for the Protection of New Varieties of Plants

of December 2, 1961, as revised at Geneva
on November 10, 1972, and on October 23, 1978*

TABLE OF CONTENTS

Preamble	
Article 1:	Purpose of the Convention; Constitution of a Union; Seat of the Union
Article 2:	Forms of Protection
Article 3:	National Treatment; Reciprocity
Article 4:	Botanical Genera and Species Which Must or May be Protected
Article 5:	Rights Protected; Scope of Protection
Article 6:	Conditions Required for Protection
Article 7:	Official Examination of Varieties; Provisional Protection
Article 8:	Period of Protection
Article 9:	Restrictions in the Exercise of Rights Protected
Article 10:	Nullity and Forfeiture of the Rights Protected
Article 11:	Free Choice of the Member State in Which the First Application is Filed; Application in Other Member States; Independence of Protection in Different Member States
Article 12:	Right of Priority
Article 13:	Variety Denomination
Article 14:	Protection Independent of Measures Regulating Production, Certification and Marketing
Article 15:	Organs of the Union
Article 16:	Composition of the Council; Votes
Article 17:	Observers in Meetings of the Council
Article 18:	President and Vice-Presidents of the Council
Article 19:	Sessions of the Council
Article 20:	Rules of Procedure of the Council; Administrative and Financial Regulations of the Union

* The Revised Text of October 23, 1978, has not yet entered into force.

127

- Article 21: Tasks of the Council
- Article 22: Majorities Required for Decisions of the Council
- Article 23: Tasks of the Office of the Union; Responsibilities of the Secretary-General; Appointment of Staff
- Article 24: Legal Status
- Article 25: Auditing of the Accounts
- Article 26: Finances
- Article 27: Revision of the Convention
- Article 28: Languages Used by the Office and in Meetings of the Council
- Article 29: Special Agreements for the Protection of New Varieties of Plants
- Article 30: Implementation of the Convention on the Domestic Level; Contracts on the Joint Utilisation of Examination Services
- Article 31: Signature
- Article 32: Ratification, Acceptance or Approval; Accession
- Article 33: Entry into Force; Closing of Earlier Texts
- Article 34: Relations Between States Bound by Different Texts
- Article 35: Communications Concerning the Genera and Species Protected; Information to be Published
- Article 36: Territories
- Article 37: Exceptional Rules for Protection Under Two Forms
- Article 38: Transitional Limitation of the Requirement of Novelty
- Article 39: Preservation of Existing Rights
- Article 40: Reservations
- Article 41: Duration and Denunciation of the Convention
- Article 42: Languages; Depositary Functions

THE CONTRACTING PARTIES.

Considering that the International Convention for the Protection of New Varieties of Plants of December 2, 1961, amended by the Additional Act of November 10, 1972, has proved a valuable instrument for international cooperation in the field of the protection of the rights of the breeders,

Reaffirming the principles contained in the Preamble to the Convention to the effect that:

(a) they are convinced of the importance attaching to the protection of new varieties of plants not only for the development of agriculture in their territory but also for safeguarding the interests of breeders,

(b) they are conscious of the special problems arising from the recognition and protection of the rights of breeders and particularly of the limitations that the requirements of the public interest may impose on the free exercise of such a right,

(c) they deem it highly desirable that these problems, to which very many States rightly attach importance, should be resolved by each of them in accordance with uniform and clearly defined principles,

Considering that the idea of protecting the rights of breeders has gained general acceptance in many States which have not yet acceded to the Convention,

Considering that certain amendments in the Convention are necessary in order to facilitate the joining of the Union by these States,

Considering that some provisions concerning the administration of the Union created by the Convention require amendment in the light of experience,

Considering that these objectives may be best achieved by a new revision of the Convention,

Have agreed as follows:

Article 1

Purpose of the Convention; Constitution of a Union; Seat of the Union

(1) The purpose of this Convention is to recognise and to ensure to the breeder of a new plant variety or to his successor in title (both hereinafter referred to as "the breeder") a right under the conditions hereinafter defined.

(2) The States parties to this Convention (hereinafter referred to as "the member States of the Union") constitute a Union for the Protection of New Varieties of Plants.

(3) The seat of the Union and its permanent organs shall be at Geneva.

Article 2

Forms of Protection

(1) Each member State of the Union may recognise the right of the breeder provided for in this Convention by the grant either of a special title of protection or of a patent. Nevertheless, a member State of the Union whose national law admits of protection under both these forms may provide only one of them for one and the same botanical genus or species.

(2) Each member State of the Union may limit the application of this Convention within a genus or species to varieties with a particular manner of reproduction or multiplication, or a certain end-use.

Article 3

National Treatment; Reciprocity

(1) Without prejudice to the rights specially provided for in this Convention, natural and legal

persons resident or having their registered office in one of the member States of the Union shall, in so far as the recognition and protection of the right of the breeder are concerned, enjoy in the other member States of the Union the same treatment as is accorded or may hereafter be accorded by the respective laws of such States to their own nationals, provided that such persons comply with the conditions and formalities imposed on such nationals.

(2) Nationals of member States of the Union not resident or having their registered office in one of those States shall likewise enjoy the same rights provided that they fulfil such obligations as may be imposed on them for the purpose of enabling the varieties which they have bred to be examined and the multiplication of such varieties to be checked.

(3) Notwithstanding the provisions of paragraphs (1) and (2), any member State of the Union applying this Convention to a given genus or species shall be entitled to limit the benefit of the protection to the nationals of those member States of the Union which apply this Convention to that genus or species and to natural and legal persons resident or having their registered office in any of those States.

Article 4

Botanical Genera and Species Which Must or May be Protected

(1) This Convention may be applied to all botanical genera and species.

(2) The member States of the Union undertake to adopt all measures necessary for the progressive application of the provisions of this Convention to the largest possible number of botanical genera and species.

(3) (a) Each member State of the Union shall, on the entry into force of this Convention in its territory,

apply the provisions of this Convention to at least five genera or species.

(b) Subsequently, each member State of the Union shall apply the said provisions to additional genera or species within the following periods from the date of the entry into force of this Convention in its territory:

- (i) within three years, to at least ten genera or species in all;
- (ii) within six years, to at least eighteen genera or species in all;
- (iii) within eight years, to at least twenty-four genera or species in all.

(c) If a member State of the Union has limited the application of this Convention within a genus or species in accordance with the provisions of Article 2(2), that genus or species shall nevertheless, for the purposes of subparagraphs (a) and (b), be considered as one genus or species.

(4) At the request of any State intending to ratify, accept, approve or accede to this Convention, the Council may, in order to take account of special economic or ecological conditions prevailing in that State, decide, for the purpose of that State, to reduce the minimum numbers referred to in paragraph (3), or to extend the periods referred to in that paragraph, or to do both.

(5) At the request of any member State of the Union, the Council may, in order to take account of special difficulties encountered by that State in the fulfilment of the obligations under paragraph (3)(b), decide, for the purposes of that State, to extend the periods referred to in paragraph (3)(b).

Article 5

Rights Protected; Scope of Protection

(1) The effect of the right granted to the breeder is that his prior authorisation shall be required for

- the production for purposes of commercial marketing
 - the offering for sale
 - the marketing
- of the reproductive or vegetative propagating material, as such, of the variety.

Vegetative propagating material shall be deemed to include whole plants. The right of the breeder shall extend to ornamental plants or parts thereof normally marketed for purposes other than propagation when they are used commercially as propagating material in the production of ornamental plants or cut flowers.

(2) The authorisation given by the breeder may be made subject to such conditions as he may specify.

(3) Authorisation by the breeder shall not be required either for the utilisation of the variety as an initial source of variation for the purpose of creating other varieties or for the marketing of such varieties. Such authorisation shall be required, however, when the repeated use of the variety is necessary for the commercial production of another variety.

(4) Any member State of the Union may, either under its own law or by means of special agreements under Article 29, grant to breeders, in respect of certain botanical genera or species, a more extensive right than that set out in paragraph (1), extending in particular to the marketed product. A member State of the Union which grants such a right may limit the benefit of it to the nationals of member States of the Union which grant an identical right and to natural and legal persons resident or having their registered office in any of those States.

Article 6

Conditions Required for Protection

(1) The breeder shall benefit from the protection provided for in this Convention when the following conditions are satisfied:

of the initial variation from which it has resulted, the variety must be clearly distinguishable by one or more important characteristics from any other variety whose existence is a matter of common knowledge at the time when protection is applied for. Common knowledge may be established by reference to various factors such as: cultivation or marketing already in progress, entry in an official register of varieties already made or in the course of being made, inclusion in a reference collection, or precise description in a publication. The characteristics which permit a variety to be defined and distinguished must be capable of precise recognition and description.

(b) At the date on which the application for protection in a member State of the Union is filed, the variety

- (i) must not—or, where the law of that State so provides, must not for longer than one year—have been offered for sale or marketed, with the agreement of the breeder, in the territory of that State, and
- (ii) must not have been offered for sale or marketed, with the agreement of the breeder, in the territory of any other State for longer than six years in the case of vines, forest trees, fruit trees and ornamental trees, including, in each case, their rootstocks, or for longer than four years in the case of all other plants.

Trials of the variety not involving offering for sale or marketing shall not affect the right to protection. The fact that the variety has become a matter of common knowledge in ways other than through offering for sale or marketing shall also not affect the right of the breeder to protection.

(c) The variety must be sufficiently homogeneous, having regard to the particular features of its sexual reproduction or vegetative propagation.

(d) The variety must be stable in its essential characteristics, that is to say, it must remain true to its description after repeated reproduction or propagation or, where the breeder has defined a particular cycle of reproduction or multiplication, at the end of each cycle.

(e) The variety shall be given a denomination as provided in Article 13.

(2) Provided that the breeder shall have complied with the formalities provided for by the national law of the member State of the Union in which the application for protection was filed, including the payment of fees, the grant of protection may not be made subject to conditions other than those set forth above.

Article 7

Official Examination of Varieties; Provisional Protection

(1) Protection shall be granted after examination of the variety in the light of the criteria defined in Article 6. Such examination shall be appropriate to each botanical genus or species.

(2) For the purposes of such examination, the competent authorities of each member State of the Union may require the breeder to furnish all the necessary information, documents, propagating material or seeds.

(3) Any member State of the Union may provide measures to protect the breeder against abusive acts of third parties committed during the period between the filing of the application for protection and the decision thereon.

Article 8

Period of Protection

The right conferred on the breeder shall be granted for a limited period. This period may not be less than

131

fifteen years, computed from the date of issue of the title of protection. For vines, forest trees, fruit trees and ornamental trees, including, in each case, their rootstocks, the period of protection may not be less than eighteen years, computed from the said date.

Article 9

Restrictions in the Exercise of Rights Protected

(1) The free exercise of the exclusive right accorded to the breeder may not be restricted otherwise than for reasons of public interest.

(2) When any such restriction is made in order to ensure the widespread distribution of the variety, the member State of the Union concerned shall take all measures necessary to ensure that the breeder receives equitable remuneration.

Article 10

Nullity and Forfeiture of the Rights Protected

(1) The right of the breeder shall be declared null and void, in accordance with the provisions of the national law of each member State of the Union, if it is established that the conditions laid down in Article 6 (1) (a) and (b) were not effectively complied with at the time when the title of protection was issued.

(2) The right of the breeder shall become forfeit when he is no longer in a position to provide the competent authority with reproductive or propagating material capable of producing the variety with its characteristics as defined when the protection was granted.

(3) The right of the breeder may become forfeit if:
(a) after being requested to do so and within a

prescribed period, he does not provide the competent authority with the reproductive or propagating material, the documents and the information deemed necessary for checking the variety, or he does not allow inspection of the measures which have been taken for the maintenance of the variety; or

(b) he has failed to pay within the prescribed period such fees as may be payable to keep his rights in force.

(4) The right of the breeder may not be annulled or become forfeit except on the grounds set out in this Article.

Article 11

Free Choice of the Member State in Which the First Application is Filed; Application in Other Member States; Independence of Protection in Different Member States

(1) The breeder may choose the member State of the Union in which he wishes to file his first application for protection.

(2) The breeder may apply to other member States of the Union for protection of his right without waiting for the issue to him of a title of protection by the member State of the Union in which he filed his first application.

(3) The protection applied for in different member States of the Union by natural or legal persons entitled to benefit under this Convention shall be independent of the protection obtained for the same variety in other States whether or not such States are members of the Union.

Article 12

Right of Priority

(1) Any breeder who has duly filed an application for protection in one of the member States of the

132

member States of the Union, enjoy a right of priority for a period of twelve months. This period shall be computed from the date of filing of the first application. The day of filing shall not be included in such period.

(2) To benefit from the provisions of paragraph (1), the further filing must include an application for protection, a claim in respect of the priority of the first application and, within a period of three months, a copy of the documents which constitute that application, certified to be a true copy by the authority which received it.

(3) The breeder shall be allowed a period of four years after the expiration of the period of priority in which to furnish, to the member State of the Union with which he has filed an application for protection in accordance with the terms of paragraph (2), the additional documents and material required by the laws and regulations of that State. Nevertheless, that State may require the additional documents and material to be furnished within an adequate period in the case where the application whose priority is claimed is rejected or withdrawn.

(4) Such matters as the filing of another application or the publication or use of the subject of the application, occurring within the period provided for in paragraph (1), shall not constitute grounds for objection to an application filed in accordance with the foregoing conditions. Such matters may not give rise to any right in favour of a third party or to any right of personal possession.

Article 13

Variety Denomination

(1) The variety shall be designated by a denomination destined to be its generic designation. Each

member State of the Union shall ensure that subject to paragraph (4) no rights in the designation registered as the denomination of the variety shall hamper the free use of the denomination in connection with the variety, even after the expiration of the protection.

(2) The denomination must enable the variety to be identified. It may not consist solely of figures except where this is an established practice for designating varieties. It must not be liable to mislead or to cause confusion concerning the characteristics, value or identity of the variety or the identity of the breeder. In particular, it must be different from every denomination which designates, in any member State of the Union, an existing variety of the same botanical species or of a closely related species.

(3) The denomination of the variety shall be submitted by the breeder to the authority referred to in Article 30(1)(b). If it is found that such denomination does not satisfy the requirements of paragraph (2), that authority shall refuse to register it and shall require the breeder to propose another denomination within a prescribed period. The denomination shall be registered at the same time as the title of protection is issued in accordance with the provisions of Article 7.

(4) Prior rights of third parties shall not be affected. If, by reason of a prior right, the use of the denomination of a variety is forbidden to a person who, in accordance with the provisions of paragraph (7), is obliged to use it, the authority referred to in Article 30(1)(b) shall require the breeder to submit another denomination for the variety.

(5) A variety must be submitted in member States of the Union under the same denomination. The authority referred to in Article 30(1)(b) shall register the denomination so submitted, unless it considers that denomination unsuitable in its State. In the latter case, it may require the breeder to submit another denomination.

(6) The authority referred to in Article 30(1)(b) shall ensure that all the other such authorities are informed of matters concerning variety denominations, in particular the submission, registration and cancellation of denominations. Any authority referred to in Article 30(1)(b) may address its observations, if any, on the registration of a denomination to the authority which communicated that denomination.

(7) Any person who, in a member State of the Union, offers for sale or markets reproductive or vegetative propagating material of a variety protected in that State shall be obliged to use the denomination of that variety, even after the expiration of the protection of that variety, in so far as, in accordance with the provisions of paragraph (4), prior rights do not prevent such use.

(8) When the variety is offered for sale or marketed, it shall be permitted to associate a trade mark, trade name or other similar indication with a registered variety denomination. If such an indication is so associated, the denomination must nevertheless be easily recognizable.

Article 14

Protection Independent of Measures Regulating Production, Certification and Marketing

(1) The right accorded to the breeder in pursuance of the provisions of this Convention shall be independent of the measures taken by each member State of the Union to regulate the production, certification and marketing of seeds and propagating material.

(2) However, such measures shall, as far as possible, avoid hindering the application of the provisions of this Convention.

Article 15

Organs of the Union

The permanent organs of the Union shall be:

- (a) the Council;
- (b) the Secretariat General, entitled the Office of the International Union for the Protection of New Varieties of Plants.

Article 16

Composition of the Council; Votes

(1) The Council shall consist of the representatives of the member States of the Union. Each member State of the Union shall appoint one representative to the Council and one alternate.

(2) Representatives or alternates may be accompanied by assistants or advisers.

(3) Each member State of the Union shall have one vote in the Council.

Article 17

Observers in Meetings of the Council

(1) States not members of the Union which have signed this Act shall be invited as observers to meetings of the Council.

(2) Other observers or experts may also be invited to such meetings.

Article 18

President and Vice-Presidents of the Council

(1) The Council shall elect a President and a first Vice-President from among its members. It may elect

134

take the place of the President if the latter is unable to officiate.

(2) The President shall hold office for three years.

Article 19

Sessions of the Council

(1) The Council shall meet upon convocation by its President.

(2) An ordinary session of the Council shall be held annually. In addition, the President may convene the Council at his discretion; he shall convene it, within a period of three months, if one-third of the member States of the Union so request.

Article 20

Rules of Procedure of the Council; Administrative and Financial Regulations of the Union

The Council shall establish its rules of procedure and the administrative and financial regulations of the Union.

Article 21

Tasks of the Council

The tasks of the Council shall be to:

(a) study appropriate measures to safeguard the interests and to encourage the development of the Union;

(b) appoint the Secretary-General and, if it finds it necessary, a Vice Secretary-General and determine the terms of appointment of each;

(c) examine the annual report on the activities of the Union and lay down the programme for its future work;

(d) give to the Secretary-General, whose functions are set out in Article 23, all necessary directions for the accomplishment of the tasks of the Union;

(e) examine and approve the budget of the Union and fix the contribution of each member State of the Union in accordance with the provisions of Article 26;

(f) examine and approve the accounts presented by the Secretary-General;

(g) fix, in accordance with the provisions of Article 27, the date and place of the conferences referred to in that Article and take the measures necessary for their preparation; and

(h) in general, take all necessary decisions to ensure the efficient functioning of the Union.

Article 22

Majorities Required for Decisions of the Council

Any decision of the Council shall require a simple majority of the votes of the members present and voting, provided that any decision of the Council under Articles 4(4), 20, 21(e), 26(5)(b), 27(1), 28(3) or 32(3) shall require three-fourths of the votes of the members present and voting. Abstentions shall not be considered as votes.

Article 23

Tasks of the Office of the Union; Responsibilities of the Secretary-General; Appointment of Staff

(1) The Office of the Union shall carry out all the duties and tasks entrusted to it by the Council. It shall be under the direction of the Secretary-General.

135

(2) The Secretary-General shall be responsible to the Council; he shall be responsible for carrying out the decisions of the Council. He shall submit the budget for the approval of the Council and shall be responsible for its implementation. He shall make an annual report to the Council on his administration and a report on the activities and financial position of the Union.

(3) Subject to the provisions of Article 21(b), the conditions of appointment and employment of the staff necessary for the efficient performance of the tasks of the Office of the Union shall be fixed in the administrative and financial regulations referred to in Article 20.

Article 24

Legal Status

(1) The Union shall have legal personality.

(2) The Union shall enjoy on the territory of each member State of the Union, in conformity with the laws of that State, such legal capacity as may be necessary for the fulfilment of the objectives of the Union and for the exercise of its functions.

(3) The Union shall conclude a headquarters agreement with the Swiss Confederation.

Article 25

Auditing of the Accounts

The auditing of the accounts of the Union shall be effected by a member State of the Union as provided in the administrative and financial regulations referred to in Article 20. Such State shall be designated, with its agreement, by the Council.

Article 26

Finances

(1) The expenses of the Union shall be met from:
— the annual contributions of the member States of the Union;
— payments received for services rendered;
— miscellaneous receipts.

(2)(a) The share of each member State of the Union in the total amount of the annual contributions shall be determined by reference to the total expenditure to be met from the contributions of the member States of the Union and to the number of contribution units applicable to it under paragraph (3). The said share shall be computed according to paragraph (4).

(b) The number of contribution units shall be expressed in whole numbers or fractions thereof, provided that such number shall not be less than one-fifth.

(3)(a) As far as any State is concerned which is a member State of the Union on the date on which this Act enters into force with respect to that State, the number of contribution units applicable to it shall be the same as was applicable to it, immediately before the said date, according to the Convention of 1961 as amended by the Additional Act of 1972.

(b) As far as any other State is concerned, that State shall, on joining the Union, indicate, in a declaration addressed to the Secretary-General, the number of contribution units applicable to it.

(c) Any member State of the Union may, at any time, indicate, in a declaration addressed to the Secretary-General, a number of contribution units different from the number applicable to it under subparagraph (a) or (b). Such declaration, if made during the first six months of a calendar year, shall take effect from the beginning of the subsequent calendar year; otherwise it shall take effect from the

(4)(a) For each budgetary period, the amount corresponding to one contribution unit shall be obtained by dividing the total amount of the expenditure to be met in that period from the contributions of the member States of the Union by the total number of units applicable to those States.

(b) The amount of the contribution of each member State of the Union shall be obtained by multiplying the amount corresponding to one contribution unit by the number of contribution units applicable to that State.

(5)(a) A member State of the Union which is in arrears in the payment of its contributions may not, subject to paragraph (b), exercise its right to vote in the Council if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The suspension of the right to vote does not relieve such State of its obligations under this Convention and does not deprive it of any other rights thereunder.

(b) The Council may allow the said State to continue to exercise its right to vote if, and as long as, the Council is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.

Article 27

Revision of the Convention

(1) This Convention may be revised by a conference of the member States of the Union. The convocation of such conference shall be decided by the Council.

(2) The proceedings of a conference shall be effective only if at least half of the member States of the Union are represented at it. A majority of five-sixths of the member States of the Union represented

a revised text of the Convention.

Article 28

Languages Used by the Office and in Meetings of the Council

(1) The English, French and German languages shall be used by the Office of the Union in carrying out its duties.

(2) Meetings of the Council and of revision conferences shall be held in the three languages.

(3) If the need arises, the Council may decide that further languages shall be used.

Article 29

Special Agreements for the Protection of New Varieties of Plants

Member States of the Union reserve the right to conclude among themselves special agreements for the protection of new varieties of plants, in so far as such agreements do not contravene the provisions of this Convention.

Article 30

Implementation of the Convention on the Domestic Level; Contracts on the Joint Utilisation of Examination Services

(1) Each member State of the Union shall adopt all measures necessary for the application of this Convention; in particular, it shall:

(a) provide for appropriate legal remedies for the effective defence of the rights provided for in this Convention;

137

(b) set up a special authority for the protection of new varieties of plants or entrust such protection to an existing authority;

(c) ensure that the public is informed of matters concerning such protection, including as a minimum the periodical publication of the list of titles of protection issued.

(2) Contracts may be concluded between the competent authorities of the member States of the Union, with a view to the joint utilisation of the services of the authorities entrusted with the examination of varieties in accordance with the provisions of Article 7 and with assembling the necessary reference collections and documents.

(3) It shall be understood that, on depositing its instrument of ratification, acceptance, approval or accession, each State must be in a position, under its own domestic law, to give effect to the provisions of this Convention.

Article 31

Signature

This Act shall be open for signature by any member State of the Union and any other State which was represented in the Diplomatic Conference adopting this Act. It shall remain open for signature until October 31, 1979.

Article 32

Ratification, Acceptance or Approval; Accession

(1) Any State shall express its consent to be bound by this Act by the deposit of:

(a) its instrument of ratification, acceptance or approval, if it has signed this Act; or

(b) its instrument of accession, if it has not signed this Act.

(2) Instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General.

(3) Any State which is not a member of the Union and which has not signed this Act shall, before depositing its instrument of accession, ask the Council to advise it in respect of the conformity of its laws with the provisions of this Act. If the decision embodying the advice is positive, the instrument of accession may be deposited.

Article 33

Entry into Force; Closing of Earlier Texts

(1) This Act shall enter into force one month after the following two conditions are fulfilled:

(a) the number of instruments of ratification, acceptance, approval or accession deposited is not less than five; and

(b) at least three of the said instruments are instruments deposited by States parties to the Convention of 1961.

(2) With respect to any State which deposits its instrument of ratification, acceptance, approval or accession after the conditions referred to in paragraph (1)(a) and (b) have been fulfilled, this Act shall enter into force one month after the deposit of the instrument of the said State.

(3) Once this Act enters into force according to paragraph (1), no State may accede to the Convention of 1961 as amended by the Additional Act of 1972.

Article 34

Relations Between States Bound by Different Texts

(1) Any member State of the Union which, on the day on which this Act enters into force with respect to

that State, is bound by the Convention of 1961 as amended by the Additional Act of 1972 shall, in its relations with any other member State of the Union which is not bound by this Act, continue to apply, until the present Act enters into force also with respect to that other State, the said Convention as amended by the said Additional Act.

(2) Any member State of the Union not bound by this Act ("the former State") may declare, in a notification addressed to the Secretary-General, that it will apply the Convention of 1961 as amended by the Additional Act of 1972 in its relations with any State bound by this Act which becomes a member of the Union through ratification, acceptance or approval of or accession to this Act ("the latter State"). As from the beginning of one month after the date of any such notification and until the entry into force of this Act with respect to the former State, the former State shall apply the Convention of 1961 as amended by the Additional Act of 1972 in its relations with any such latter State, whereas any such latter State shall apply this Act in its relations with the former State.

Article 35

Communications Concerning the Genera and Species Protected; Information to be Published

(1) When depositing its instrument of ratification, acceptance or approval of or accession to this Act, each State which is not a member of the Union shall notify the Secretary-General of the list of genera and species to which, on the entry into force of this Act with respect to that State, it will apply the provisions of this Convention.

(2) The Secretary-General shall, on the basis of communications received from each member State of the Union concerned, publish information on:

(a) the extension of the application of the provisions of this Convention to additional genera and species after the entry into force of this Act with respect to that State;

(b) any use of the faculty provided for in Article 3(3);

(c) the use of any faculty granted by the Council pursuant to Article 4(4) or (5);

(d) any use of the faculty provided for in Article 5(4), first sentence, with an indication of the nature of the more extensive rights and with a specification of the genera and species to which such rights apply;

(e) any use of the faculty provided for in Article 5(4), second sentence;

(f) the fact that the law of the said State contains a provision as permitted under Article 6(1)(b)(i), and the length of the period permitted;

(g) the length of the period referred to in Article 8 if such period is longer than the fifteen years and the eighteen years, respectively, referred to in that Article.

Article 36

Territories

(1) Any State may declare in its instrument of ratification, acceptance, approval or accession, or may inform the Secretary-General by written notification any time thereafter, that this Act shall be applicable to all or part of the territories designated in the declaration or notification.

(2) Any State which has made such a declaration or given such a notification may, at any time, notify the Secretary-General that this Act shall cease to be applicable to all or part of such territories.

(3) (a) Any declaration made under paragraph (1) shall take effect on the same date as the ratification, acceptance, approval, or accession in the instrument of which it was included, and any notification given

under that paragraph shall take effect three months after its notification by the Secretary-General.

(b) Any notification given under paragraph (2) shall take effect twelve months after its receipt by the Secretary-General.

Article 37

Exceptional Rules for Protection Under Two Forms

(1) Notwithstanding the provisions of Article 2(1), any State which, prior to the end of the period during which this Act is open for signature, provides for protection under the different forms referred to in Article 2(1) for one and the same genus or species, may continue to do so if, at the time of signing this Act or of depositing its instrument of ratification, acceptance or approval of or accession to this Act, it notifies the Secretary-General of that fact.

(2) Where, in a member State of the Union to which paragraph (1) applies, protection is sought under patent legislation, the said State may apply the patentability criteria and the period of protection of the patent legislation to the varieties protected thereunder, notwithstanding the provisions of Articles 6(1)(a) and (b) and 8.

(3) The said State may, at any time, notify the Secretary-General of the withdrawal of the notification it has given under paragraph (1). Such withdrawal shall take effect on the date which the State shall indicate in its notification of withdrawal.

Article 38

Transitional Limitation of the Requirement of Novelty

Notwithstanding the provisions of Article 6, any member State of the Union may, without thereby

creating an obligation for other member States of the Union, limit the requirement of novelty laid down in that Article, with regard to varieties of recent creation existing at the date on which such State applies the provisions of this Convention for the first time to the genus or species to which such varieties belong.

Article 39

Preservation of Existing Rights

This Convention shall not affect existing rights under the national laws of member States of the Union or under agreements concluded between such States.

Article 40

Reservations

No reservations to this Convention are permitted.

Article 41

Duration and Denunciation of the Convention

(1) This Convention is of unlimited duration.

(2) Any member State of the Union may denounce this Convention by notification addressed to the Secretary-General. The Secretary-General shall promptly notify all member States of the Union of the receipt of that notification.

(3) The denunciation shall take effect at the end of the calendar year following the year in which the notification was received by the Secretary-General.

(4) The denunciation shall not affect any rights acquired in a variety by reason of this Convention prior to the date on which the denunciation becomes effective.

Article 42

Languages; Depositary Functions

(1) This Act shall be signed in a single original in the French, English and German languages, the French text prevailing in case of any discrepancy among the various texts. The original shall be deposited with the Secretary-General.

(2) The Secretary-General shall transmit two certified copies of this Act to the Governments of all States which were represented in the Diplomatic Conference that adopted it and, on request, to the Government of any other State.

(3) The Secretary-General shall, after consultation with the Governments of the interested States which were represented in the said Conference, establish official texts in the Arabic, Dutch, Italian, Japanese and Spanish languages and such other languages as the Council may designate.

(4) The Secretary-General shall register this Act with the Secretariat of the United Nations.

(5) The Secretary-General shall notify the Governments of the member States of the Union and of the States which, without being members of the Union, were represented in the Diplomatic Conference that adopted it of the signatures of this Act, the deposit of instruments of ratification, acceptance, approval and accession, any notification received under Articles 34(2), 36(1) and (2), 37(1) and (3) or 41(2) and any declaration made under Article 36(1).

Appendix C

**WIPO MODEL LAW FOR DEVELOPING COUNTRIES ON
INDUSTRIAL DESIGNS**

WORLD INTELLECTUAL PROPERTY ORGANIZATION
(WIPO)
and the
UNITED INTERNATIONAL BUREAUX FOR
THE PROTECTION OF INTELLECTUAL PROPERTY
(BIRPI)

**MODEL LAW
FOR DEVELOPING COUNTRIES
ON INDUSTRIAL DESIGNS**

GENEVA
1970

MODEL LAW FOR DEVELOPING COUNTRIES ON INDUSTRIAL DESIGNS

CHAPTER I: GENERAL PROVISIONS

Section 1: Scope of This Law

- (1) Industrial designs are protected under this Law, subject to its conditions and formal requirements.**
- (2) Such protection does not exclude any other rights provided for in the law, in particular rights derived from the law of copyright.**

Section 2: Definition of an Industrial Design

- (1) Any composition of lines or colors or any three-dimensional form, whether or not associated with lines or colors, is deemed to be an industrial design, provided that such composition or form gives a special appearance to a product of industry or handicraft and can serve as a pattern for a product of industry or handicraft.**
- (2) The protection under this Law does not extend to anything in an industrial design which serves solely to obtain a technical result.**

Section 3: Substantive Conditions for Protection

- (1) Only industrial designs that are new shall benefit from protection under this Law.**
- (2) Industrial designs that are contrary to public order or morality shall not be protected.**

Section 4: Definition of Novelty

- (1) A regular application for registration of an industrial design shall raise a presumption that the design was new at the time of the application.**

(2) An industrial design shall not be new if, before the date of

claimed in respect thereof, it has been made available to the public, anywhere and at any time whatever, through description or use, or in any other way.

(3) An industrial design shall not be deemed to have been made available to the public solely by reason of the fact that, within the period of six months preceding the filing of an application for registration, it has appeared in an official or officially recognized international exhibition.

(4) An industrial design shall not be new solely by reason of the fact that it differs from earlier embodiments in minor respects or that it concerns a type of product different from the said embodiments.

Section 5: Applicability of International Conventions

The relevant provisions of international bilateral or multilateral conventions to which [the country] has or will become a party, which regulate the rights of nationals of States parties to such conventions and of persons assimilated to such nationals, shall be applicable by virtue of this Law.

Section 6: Rights of Foreigners

Foreigners who do not fall within the scope of the preceding Section shall have the same rights as nationals, unless the Minister responsible for industrial property shall have, by order, suspended the application of this provision so far as it relates to the nationals of a country, and persons assimilated to them, on the ground that that country does not grant adequate reciprocity.

CHAPTER II: RIGHT TO LEGAL PROTECTION

Section 7: Right to Legal Protection

(1) Subject to Section 9, the right to legal protection shall belong to the creator of the industrial design or his successor in title.

(2) If two or more persons have jointly created an industrial design, the right to legal protection shall belong to them or their successors in title jointly; a person who has merely assisted in the creation of the industrial design and has made no contribution of a creative nature shall not, however, be deemed to be the creator or co-creator.

(3) Any person who is the first to file an application for the registration of an industrial design or is the first validly to claim

the earliest priority for his application shall, subject to the provisions of Sections 8 and 9, be deemed to be the creator or the successor in title of the creator.

Section 8: Usurpation

- (1) If the essential elements of an industrial design, the subject of an application, have been obtained from the creation of another person without the rightful owner having consented to the obtaining thereof and to the filing of an application, the rightful owner may demand that the application or the registration be transferred to him.
- (2) The consent of the rightful owner may be given subsequent to the filing of the application; in that event, it shall be retroactive to the date of the application.

Section 9: Industrial Designs Created Pursuant to a Commission or by an Employee

- (1) Subject to the legal provisions governing contracts for performing a certain work and employment contracts, and in the absence of contractual provisions to the contrary, the ownership of an industrial design made in execution of the contract shall belong to the person having commissioned the work or to the employer.
- (2) The same provision shall apply when an employment contract does not require the employee to exercise any creative activity, but when the employee has created an industrial design using data or means that his employer has put at his disposal. In that event, he shall have a right to remuneration, taking into account his salary and the importance of the industrial design created. Such remuneration shall, in the absence of agreement between the parties, be fixed by the court.

Section 10: Right of the Creator of an Industrial Design to be Mentioned as Such

- (1) The creator of the industrial design shall be entitled to be mentioned as such in the registration.
- (2) The preceding provision shall not be modified by contract.

CHAPTER III: PROCEDURE FOR REGISTRATION

Section 11: Requirements of Application

- (1) The application for registration of an industrial design shall be made to the Industrial Designs Office and shall contain :**
 - (a) a request for registration of the industrial design ;**
 - (b) the complete name and address of the applicant and, if the applicant's address is outside the country, an address for service within the country ;**
 - (c) a specimen of the article embodying the industrial design, or a photographic or graphic representation of the industrial design, in color where it is in color ;**
 - (d) an indication of the kind of products for which the industrial design is to be used and also, if the Rules make provision for classification, an indication of the class or classes in which such products are included.**
- (2) If appropriate, the application for registration shall be accompanied by a declaration, signed by the creator of the industrial design, requesting that he be mentioned as such in the registration and giving his name and address.**
- (3) If the application is filed through an agent, it shall be accompanied by a power of attorney signed by the applicant ; legalization or certification of the signature shall not be necessary.**
- (4) Provided that the products indicated are of the same kind or kinds, or, if the Rules make provision for classification, that they are in the same class or classes, the application may comprise one to fifty industrial designs.**
- (5) The details of the above requirements with which the application for registration of an industrial design must comply shall be fixed by the Rules.**

Section 12: Right of Priority

The applicant for registration of an industrial design who wishes to avail himself of the priority of an earlier application filed in another country is required to append to his application a written declaration, indicating the date and number of the earlier application, the country in which he or his predecessor in title filed such application and the name of the applicant, and to furnish, within a period of three months from the date of the later application, a copy of the earlier application, certified as correct

by the Industrial Property Office or the Industrial Designs Office of the country where it was filed.

Section 13: Payment of Fees

An application for registration of an industrial design shall not be entertained unless the fees prescribed by the Rules have been paid.

Section 14: Examination of Application

(1) The Industrial Designs Office shall examine the application as to its conformity with Sections 3 (2), 11, 12 and 13.

(2) If the provisions of Sections 3 (2), 11 or 13 have not been complied with, the Office shall refuse registration of the industrial design; if the requirements of Section 12 have not been fulfilled, the Office shall not mention, in connection with the registration of the industrial design, the priority claimed.

(3) Before taking a decision under subsection (2), the Office shall notify the applicant of the defect in the application. The application may then be completed or amended in the three months following the notification. The application shall take effect only on the date upon which it becomes complete and regular.

Alternative A:

Section 15: Registration of Industrial Design without Examination of Application as to Substance

(1) When the examination provided for in Section 14 shows that the application satisfies the requirements of Sections 3 (2), 11 and 13, the industrial design shall be registered, in accordance with the application, and without further preliminary examination, in particular, without examination as to whether the registration is or is not contrary to Section 3 (1).

(2) When the examination provided for in Section 14 shows that the requirements of Section 12 have been fulfilled, the Office shall record, in connection with the registration, the priority claimed.

Alternative B:**Section 15: Registration of Industrial Design after
Opportunity for Opposition**

- (1) When the examination provided for in Section 14 shows that the application satisfies the requirements of Sections 3 (2), 11 and 13, the Industrial Designs Office shall invite the applicant to pay, within a period of two months, the fee for publication of the application fixed by the Rules.**
- (2) If the fee for publication of the application is not paid within the prescribed period, registration of the industrial design shall be refused.**
- (3) If the publication fee is paid within the prescribed period, the Industrial Designs Office shall proceed to publish the application. Publication shall contain a reproduction of the industrial design and shall mention: the number and date of the application; the name and address of the applicant and, if his address is outside the country, an address for service in the country; if priority is claimed, an indication of that fact, and the number, date and country of the application on which the priority claim is based; the kinds as well as the classes of products within the meaning of Section 11 (1) (d); and the name and address of the creator, if he has asked to be mentioned in the registration.**
- (4) Any person who considers that registration of an industrial design is precluded on one or more of the grounds referred to in Sections 3, 4 and 7 (3) may give notice of opposition to such registration within a period of three months from the date of publication of the application, stating the grounds for opposition. Opposition shall not be deemed to have been lodged until the relevant fee fixed by the Rules has been paid.**
- (5) In the event of usurpation, the rightful owner may give notice of opposition, either to prevent the registration or to cause it to be effected in his own name.**
- (6) When no opposition has been lodged within the prescribed period, the industrial design shall be registered.**
- (7) In the event of opposition, the Industrial Designs Office shall communicate the grounds for opposition to the applicant and shall invite him to present his observations on these grounds within a period of three months. After that period, the Industrial Designs Office shall decide on the opposition as rapidly as possible, and shall register the industrial design or refuse registration.**

- (8) Registrations are granted without guarantee as to their validity.
- (9) The Industrial Designs Office may, upon request, grant a reasonable extension of any of the periods referred to in this Section, particularly if the applicant is resident abroad.
- (10) The details of the application of this Section shall be fixed by the Rules.

Alternative C:

Section 15: Registration of Industrial Design after Examination of Application as to Substance

- (1) When the examination provided for in Section 14 shows that the application satisfies the requirements of Sections 3 (2), 11 and 13, the Industrial Designs Office shall proceed to the examination of the application as to its substance, in order to determine:
 - (a) whether the subject of the application is an industrial design within the meaning of Section 2;
 - (b) whether the industrial design was new at the time of application (Sections 3 (1) and 4);
 - (c) whether, for the same industrial design, no prior application, or application benefiting from an earlier priority, has been made in the country.
- (2) When the Industrial Designs Office finds that the answer to at least one of the questions mentioned in the preceding paragraph is in the negative, it shall notify the applicant accordingly, stating the reasons for which the industrial design cannot be registered; the Office shall invite him to withdraw his application, or to present his observations on the reasons for refusal, within a period of two months following notification. If the applicant does not withdraw his application, and if he does not present any observations within the period mentioned, or if he has presented his observations within such period and the Industrial Designs Office nevertheless continues to consider that the industrial design is precluded from registration, registration shall be refused. If, however, the Industrial Designs Office considers that the industrial design may be registered, subsection (3) of the present Section shall apply.
- (3) When, possibly after proceeding under subsection (2) of this Section, the Industrial Designs Office finds that the answers to questions (a), (b) and (c) of the preceding subsection are in the

(4) Subsection (8) of Alternative B.

(5) The Industrial Designs Office may, on request, grant a reasonable extension of the period prescribed in subsection (2), particularly when the applicant is resident abroad.

(6) Subsection (10) of Alternative B.

Section 16: Contents of Register and Issuance of Certificate

(1) The Industrial Designs Office shall maintain a Register in which shall be registered industrial designs, numbered in the order of their registration, and in which shall be recorded, in respect of each industrial design, all transactions to be recorded by virtue of this Law.

(2) The registration of an industrial design shall include a reproduction of the industrial design and shall mention: its number; the name and address of the registered owner and, if the registered owner's address is outside the country, his address for service within the country; the dates of application and registration; if priority is claimed, an indication of that fact, and the number, date and country of the application on which the priority claim is based; the kinds and the classes of products within the meaning of Section 11 (1) (d), and the name and address of the creator of the industrial design, if he has asked to be mentioned in the registration.

(3) The Office shall establish and send by registered mail a certificate of the registration of the industrial design to the registered owner at his address or, if his address is outside the country, at his address for service.

(4) The Office shall record any change of address, or address for service, which shall be notified to it by the registered owner.

(5) In the absence of any provision to the contrary in this Law, communications to be made to the registered owner of an industrial design by virtue of this Law shall be sent to him at his last recorded address and, at the same time, at his last recorded address for service.

Alternative A:

Section 17: Publication of Registered Industrial Designs; Consultation of Register

(1) The Industrial Designs Office shall publish, in the form and within the period fixed by the Rules, industrial designs registered,

in the order of their registration, reproducing all the particulars recorded by virtue of Section 16 (2).

(2) Industrial designs registered at the Industrial Designs Office may be consulted free of charge at that Office, and any person may obtain copies thereof at his own expense. This provision shall also be applicable to transactions recorded in respect of any industrial design.

Alternative B:

Section 17: Publication of Registered Industrial Designs; Consultation of Register

(1) The Industrial Designs Office shall publish, in the form and within the period fixed by the Rules, the number and date of registration, mentioning the name of the applicant and the number of the application. It shall also publish other elements of any earlier publication which have since undergone changes.

(2) Subsection (2) of Alternative A.

Section 18: Appeals

Any person showing a legitimate interest may appeal against a final decision of the Industrial Designs Office to the court of the place where that Office is located, under the conditions prescribed in Section 38.

CHAPTER IV: DURATION AND RENEWAL OF REGISTRATIONS OF INDUSTRIAL DESIGNS

Section 19: Duration of Registration

Subject to earlier termination as provided for in Sections 32 to 34, registration of an industrial design shall be for a period of five years from the date of application.

Section 20: Renewal

(1) Registration of an industrial design may be renewed for two further consecutive periods of five years merely by paying the fee for renewal fixed by the Rules.

(2) The renewal fee must be paid within the twelve months

a period of grace of six months shall be granted for the payment of the fee after such expiration, upon payment of a surcharge fixed by the Rules.

(3) The Industrial Designs Office shall record in the Register and publish, in the form and within the period fixed by the Rules, renewals of registrations.

CHAPTER V: RIGHTS CONFERRED BY REGISTRATION OF AN INDUSTRIAL DESIGN

Section 21: Rights Conferred by Registration

(1) Registration of an industrial design shall confer upon its registered owner the right to preclude third parties from the following acts :

- (a) reproducing the industrial design in the manufacture of a product ;
- (b) importing, offering for sale and selling a product reproducing the protected industrial design ;
- (c) stocking of such a product for the purposes of offering it for sale or selling it.

(2) The acts referred to in subsection (1) are not rendered lawful solely by reason of the fact that the reproduction differs from the protected industrial design in minor respects or that it concerns a type of product different from the said industrial design.

Section 22: Limitation of Rights Conferred by Registration

(1) The rights conferred by the registration of an industrial design shall extend only to acts done for industrial or commercial purposes.

(2) The rights conferred by the registration of an industrial design shall not extend to acts in respect of a product embodying the protected industrial design after the product has been lawfully imported or sold in the country.

CHAPTER VI: ASSIGNMENT AND TRANSFER OF APPLICATIONS AND REGISTRATIONS; JOINT OWNERSHIP OF RIGHTS CONFERRED BY REGISTRATION

Section 23: Assignment and Transfer of Applications and Registration

- (1) Applications for registration or registrations of industrial designs may be assigned or transferred by succession.**
- (2) The assignment of applications and registrations shall be made in writing and shall require the signatures of the contracting parties.**
- (3) Assignments or transfers by succession of registrations of industrial designs shall be recorded at the Industrial Designs Office on payment of a fee fixed by the Rules; assignments and transfers of applications shall, on payment of the same fee, be provisionally recorded and the industrial design, once registered, shall be registered in the name of the assignee or the transferee.**
- (4) Assignments and transfers shall have no effect against third parties until they have been recorded.**

Section 24: Joint Ownership of Rights Conferred by Registration

In the absence of any provision to the contrary between the parties, joint owners of an industrial design in respect of which registration has been applied for or granted may, separately, transfer their parts, use the industrial design and exercise the exclusive rights granted under Section 21, but may only jointly grant a license to a third party to exploit the industrial design.

CHAPTER VII: LICENSE CONTRACTS

Section 25: License Contracts

- (1) The registered owner of an industrial design may, by contract, grant to another person or enterprise a license to exploit the industrial design.**
- (2) The license contract must be in writing and shall require the**

(3) The license contract or an appropriate extract thereof shall be recorded in the Industrial Designs Office, on payment of a fee fixed by the Rules; the license shall have no effect against third parties until so recorded.

(4) The recording of a license shall be cancelled on request of the registered owner of the industrial design or the licensee, upon evidence of termination of the license.

Section 26: Invalid Clauses in License Contracts

(1) Clauses in license contracts or relating to such contracts are null and void in so far as they impose upon the licensee, in the industrial or commercial field, restrictions not deriving from the rights conferred by registration of the industrial design or unnecessary for the safeguarding of these rights.

(2) The following in particular shall be deemed not to constitute such restrictions:

(a) limitations concerning the scope, extent, territory or duration of exploitation of the industrial design, or the quality or quantity of the products in connection with which the industrial design may be exploited;

(b) the obligation imposed upon the licensee to abstain from all acts capable of prejudicing the validity of the registration of the industrial design.

Section 27: Right of Licensor to Grant Further Licenses

(1) In the absence of any provision to the contrary in the license contract, the grant of a license shall not prevent the licensor from granting further licenses to third persons for the exploitation of the same industrial design, or from exploiting the industrial design himself.

(2) The grant of an exclusive license shall prevent the licensor from granting further licenses to third persons for the exploitation of the same industrial design and, in the absence of any provision to the contrary in the license contract, from exploiting the industrial design himself.

Section 28: Rights of Licensees

In the absence of any provision to the contrary in the license contract, the licensee shall be entitled to perform all the acts referred to in Section 21 for the whole duration of the registra-

tion, including renewals, in the entire territory of the country, and in respect of all applications of the industrial design.

Section 29: Non-Assignability of Licenses

- (1) In the absence of any provision to the contrary in the license contract, a license shall not be assignable to third parties and the licensee shall not be entitled to grant sublicenses.
- (2) If the licensee is entitled by contract to assign his license or to grant sublicenses, Sections 25 to 28 and 30 shall apply.

Section 30: License Contracts Involving Payments Abroad

The responsible Minister or other competent authority may, by order, provide that, on pain of invalidity, license contracts or certain categories of them, and amendments or renewals of such contracts, which involve the payment of royalties abroad, shall require the approval of [administrative authority], taking into account the needs of the country and its economic development.

Section 31: Effects of Nullity of Registration on License Contract

When the registration upon which the license is based is declared null and void by virtue of Sections 33 and 34, the nullity of the registration shall not entail the repayment of royalties paid by the licensee unless he has not effectively profited from the license.

CHAPTER VIII: RENUNCIATION AND NULLITY

Section 32: Renunciation of Registration

- (1) The registered owner of an industrial design may renounce the registration by a written declaration addressed to the Industrial Designs Office.
- (2) Renunciation may be limited to one kind of product or, if the Rules make provision for classification, to one class of products or, if the application comprises several industrial designs (Section 11 (4)), to a part of those industrial designs.
- (3) Renunciation shall be immediately recorded and published by the Industrial Designs Office. It shall be effective only after

(4) If a license in respect of an industrial design is recorded at the Industrial Designs Office, renunciation of the registration shall be recorded only upon the submission of a declaration by which the recorded licensee consents to the renunciation, unless the latter has expressly waived this right in the license contract.

Section 33: Nullity of Registration

(1) On the request of any person showing a legitimate interest, or of any competent authority, the court, after having given the registered owner an opportunity to be heard, shall declare the registration of an industrial design null and void if it ought not to have been registered by reason of Section 3 (2) of this Law, if it fails to satisfy the conditions for protection mentioned in Sections 2, 3 (1) and 4 of this Law, if the same industrial design has previously been registered following a prior application or an application benefiting from an earlier priority, or if the registered industrial design has been usurped (Section 8). As to the conditions of Section 3 (2), the court shall not take into account grounds that no longer exist at the time of its decision.

(2) In the case of an application covering several industrial designs (Section 11 (4)) and in which the grounds for nullity of registration apply only to a part thereof, nullity of registration shall be declared in respect only of such part.

Section 34: Effects of Declaration of Nullity

(1) When a decision declaring total or partial nullity of a registration becomes final, the registration shall be deemed, within the limits of the decision, to have been null and void from the date of such registration.

(2) When a declaration of nullity becomes final, the Registrar of the court shall notify the Industrial Designs Office, which shall record the declaration in the Register and publish it as soon as possible.

CHAPTER IX: INFRINGEMENT OF RIGHTS CONFERRED BY REGISTRATION OF AN INDUSTRIAL DESIGN

Section 35: Civil Sanctions

(1) The registered owner of an industrial design whose rights under Section 21 are threatened with infringement, or are

infringed, may institute legal proceedings designed to prevent the infringement or to prohibit its continuation.

(2) In case of infringement of those rights, the registered owner of the industrial design may also claim damages and the application of any other sanction provided for in the civil law.

Section 36: Penal Sanctions

(1) Any intentional infringement of the rights of the registered owner of an industrial design under Section 21 shall constitute an offense.

(2) Such offense shall be punishable by a fine not exceeding or by imprisonment not exceeding, or both.

(3) In the event of recidivism, the maximum penalties shall be doubled.

(4) Recidivism shall be deemed to have occurred when, in the course of the five preceding years, the offender has been convicted of another infringement of the rights conferred by Section 21.

Section 37: Legal Proceedings by Licensee

(1) Any licensee may, by registered mail, require the registered owner of the industrial design to introduce the legal actions necessary to obtain civil or penal sanctions in respect of any infringement of the rights under Section 21 reported by the licensee.

(2) In the absence of any provisions to the contrary in the license contract, the licensee under a recorded license may either, if the registered owner refuses or neglects to introduce the said legal actions within three months of the request, obtain damages from the registered owner if the court finds that the infringement of the rights under Section 21 was obvious or, after having given notice to the registered owner, introduce such actions in his own name, without prejudice to the right of the registered owner to intervene in those actions. The licensee shall be responsible to the registered owner for any damage which the latter may suffer by reason of unwarranted actions introduced by the former.

(3) The period of three months referred to in subsection (2) shall be reduced to two weeks if the licensee shows that immediate action is necessary to avoid substantial damage.

CHAPTER X: PROCEDURAL PROVISIONS AND RULES

Section 38: Competence of Courts

- (1) The ordinary courts shall be competent to deal with all litigation concerning the application of this Law, particularly as regards appeals against decisions of the Industrial Designs Office, the right to legal protection, the fixing of the remuneration of an employee-creator, license contracts, the nullity of registrations, and the infringement of the rights in respect of an industrial design.
- (2) Subject to Section 18, the court of the domicile of the defendant, or, if he is domiciled abroad, the court of the place where the Industrial Designs Office is located, shall have jurisdiction.
- (3) The decisions of the court shall be subject to appeal, annulment, or revision, according to the general rules of procedure.

Section 39: Rules

The Rules shall prescribe the details of application of this Law, particularly in regard to Sections 11 (5), 13, 15 (1)*, (4)*, (6)** and (10)*, 17 (1), 20, 23 (3) and 25 (3).

* In the case of Alternative B.

** In the case of Alternative C.

Appendix D

EXCERPT FROM STATE COUNCIL JUDGMENTS

STATE COUNCIL JUDGMENTS

LEGAL PRINCIPLES OF THE SUPREME ADMINISTRATIVE COURT

7. Legal Principle

"Granting of a patent certificate to the applicant by the Patent Office does not mean in itself an evidence that novelty characteristics are fulfilled in that patent, as well as it also does not confine the authority of the administrative jurisdiction in that field of search." The source of this principle is Law 132/1949, amended by Law 650/1955, Explanatory Memorandum and the Executive Regulations.

Summary of the Judgment

The following quotation was mentioned in the Explanatory Memorandum of Law 650/1955: "Since the law has been issued without consideration to the pre-examination system regarding patents, industrial models and designs, and in accordance with the reasons mentioned in the Explanatory Memorandum, it is actually understood that the law does not oblige the Patent Office to verify the novelty of the patent."

The following was also mentioned in the Explanatory Memorandum of Law 132/1949: "There are two main systems for patents:

The first one is the French which grants the patent once the invention is filed without examination or opposition. The second one is the English system which grants the patent after accurate examination in order to verify the fulfillment of the objective elements as well as giving chance to opposition.

Since it was inconvenient for Egypt either to apply the French model which became ignored by some countries, or to apply the English model (Italy has modified its system in 1934 in conformity with the English one, but could not apply it and postponed it), therefore it was necessary for Egypt to adopt an intermediate system. Accordingly, the legislature has approved a stipulated filing of inventions in addition to giving any interested party the chance of opposition in conformity with the laws of Yugoslavia and South Africa. The legislature stipulated also that an arbitration committee should be formed in order to settle any disputes arising concerning patents with the possibility of appealing before the courts against the decisions of that committee. The suggested system leads to the formation of trained examiners who could comply in the future with the English system which is internationally considered as the best significant system.

It is apparently clear that the legislature has given no consideration to the pre-examination system, and gave the Patent Office the authority to verify only the following:

1 - That the patent application is submitted in accordance with the provisions of article 15 of the law, which stipulates that the application should be either submitted by the inventor or by one to whom the rights of the invention have legally been transferred, as well as that the application should not include more than one invention.

2 - Specifications and drawings should be in such a manner as to enable industrial experts to manufacture or execute the invention.

3-The inventive claims are to be specifically and clearly mentioned in the application.

Once the above-mentioned provisions are met, the application is to be published according to Article 20 of the law in order to give a chance to any interested party to submit an opposition. By virtue of Article 28 of the Executive Regulations, the Patent Office has to grant the patent certificate in condition that no opposition was submitted, or submitted and rejected by a court decision.

Accordingly, it is obviously clear that the acceptance of any patent application is not considered as an evidence of novelty, and consequently does not limit the scope of the administrative jurisdiction. It was decided by the Patent Office that "The novelty of a patent is a matter which is evaluated by the court.

8 - Legal principle

Patent criminal lawsuit does not suspend the cancellation lawsuit, and the possibility of submitting both claims simultaneously before the court. The source is judgment No 132/1949 amended by Law No. 650/1955 and the differentiation between administrative and jurisdiction in respect of the legal power and authority of each one.

Summary of the Judgment

Law no. 650/1955 amended by Article 49 of the Law 132/1949 stated the following:

"The owner of a patent or industrial model or design has the right during the processing of the administrative or criminal lawsuit to obtain from the administration court a judgment of precautionary measures"

9 - Legal principle

The authority of the Patent Office to grant patent is restricted to verifying the formalities and completeness of procedures. In addition to that, the objective provisions fall within the court scope of competence. The source of this judgment is Law No. 132 of 1949 in respect to patent, designs and industrial models.

Summary of the judgment

By virtue of Law No. 132 of 1949 and its Executive Regulations, the authority of Patent

Office is restricted to verify the provisions which are mentioned in article 15 and 16 of the law and not to surpass that scope. The patent office is not authorized to examine or discuss the fulfillment or non-fulfillment of the objective provisions which fall within the court scope of competence .

4 - Lawsuit No. 4, session dated Feb.22, 1954

Patents- Profession of agents-Registration of agents-provisions and legal capacity of practitioners according to law No. 132 of 1951 ,

Although the legislature has set forth the profession of agents and prohibited in the first article any one who is not registered as agent to practice such profession, and clarified in the second article the provisions the required provisions including that the agent must be of Egyptian nationality and having a university degree the legislature has found that some people are practicing this profession prior to the issuance date of that law. Accordingly article 10 of the law has been issued to settle this matter. Quotation of this article is as follows:-

"It is permitted to those who are practicing as agents before the issuance of the law to submit within 6 months an application for registering their names as agents. In case if the applicant is not fulfilling the required provisions and was practicing the profession during the issuance period of the law,gained experiences and other qualifications which make him competent to practice the profession, it is likely permitted to register his name as patent agent

5 - Administrative court - circle of contentions

The court has decided that according to the law and its executive regulations, the authority of the Patent Office is restricted to make sure that provisions of article 15 and 16 are met. The Patent Office is not authorized to verify or examine the objective elements which fall within the court scope of competence. That is exactly what was stated by the Patent Office who supported his assertion by stating that no authority has been given to him to verify novelty as long as the legislature has not approved the pre-examination system. Accordingly the court decides that the Patent Office has taken the correct procedures and duly complied with the law, hence the patent office is not involved in that contention,

And whereas the patent has been issued without verifying the objective elements which are scientifically, technically and legally necessary for the perfection of the invention, namely to consider it "a novel invention which is industrially applicable" therefore granting of patent means only that the subject patent application has been duly filed according to the correct procedures, but it does not mean that the applicant is the owner of the invention.

Appendix E

REPORTS OF WIPO EXPERT MISSIONS ON DOCUMENTATION

WIPO PROJECT EGY/84/005

MEETING TO DISCUSS DOCUMENTATION IN THE EGYPTIAN PATENT OFFICE

Invited: Mr M. El Fatah
 Mr M. El Manem
 Mr A. Eweida
 Mr A. Helal (absent on other business)
 Mr S. Mousa
Chairman: Mr J. Brennan (WIPO/EPO-DG1)

Date: 11/11/90
Time: 10.00
Place: Training Room

The report was discussed with Mrs Osman after her return from the USA

SUMMARY

It was agreed that the present policy of maintaining complete classified and numerical collections of Egyptian patents and applications was both important and legally justified and it is essential that this should be continued.

It was also agreed that priority should continue to be given to the maintenance of numerical foreign collections and that these should be searched using electronic media currently and to become available (CASSIS/ACCESS/FIRST).

A WIPO mission to study the use of the new electronic systems (EDP and CASSIS/ACCESS/FIRST) for the development of documentation and search would be worthwhile during the second half of 1991.

REPORT

- 1) Recommended documentation information policy:
 - a) To maintain and make available numerical and classified collections of all EG bibliographic data, applications and patents legally defined as being in the public domain.
 - b) To maintain and make available complete numerical collections (paper/microform/CD) of English, French and German language patent documents (US, GB, AU, EP, WO, FR, DE, DD) for direct consultation and which provide the basic information sources for results obtained from searching in the electronic media.
 - c) To develop maintain electronically searchable systems (EDP, CD-ROM) which may be used to allow the searching of the numerical collections or to produce classified search groups.
 - d) To provide assistance and technical information to examiners and to external users.

2) Recommended policy for EG documents and collections:

a) Patent number on each page of specification:

Local regulation already agreed.

b) Production of first page of specification by EDP (in near future and whole document (later). This would allow inclusion of the abstract, pre-publication checking of the bibliographic data and correct inclusion of WIPO code 45 (publication date of granted specification):

Local regulation would have to be agreed.

c) Complete numerical and classified collections of EG patents and applications. (Before/after 1973 applications.):

Examiners should apply IPC classes to all patents from pre-1968 applications.

Use of EDP system to assign classes after 1968 should be studied after the data has been entered.

d) Document or application availability and class lists. (Before/after 1973 applications.):

Use of EDP system should be studied after data has been entered

3) Recommended general search policy - search and electronic media:

a) EG Documentation

Must search for novelty and closest state of the (relevant EG) art in the Egyptian public domain

- requires complete classified and numerical collections of all patents and applications laid-open.

b) Foreign documentation

For good relevant up-to-date state of the art CASSIS and ACCESS should normally be sufficient.

The policy in force since 1988 that no further US FPC's are made should be maintained.

US classification should be used in order to allow more precise searching by defining the relevant US classes as search terms. This is especially important in technical areas where key-words do not allow sufficiently precise definition of the field of search and lead to many "false hits" or the existence of a large number of equivalent search terms makes a complete search difficult and time-consuming. The US classification is available in the EG.P.O. on CASSIS and in paper and micro-form. IPC class is not a searchable field in CASSIS.

Assuming that ACCESS has the same search fields as CASSIS then this should provide additional good prior art from 1978.

4) Recommendations for optical disc systems

That the existing p.c. and disc reader should be moved to the microfilm room for use by library staff and examiners, and that a new p.c. system with higher speed and more working memory and hard disc space (20MHz/1.5MB/80MB) better suited to the present and projected future needs of EDP, should be purchased.

Currently only CASSIS is in use and searches are normally carried out by EDP staff for examiners to find corresponding US documents. As the classified US collection is not being maintained examiners should spend much more time searching on CASSIS in order to locate good prior art. This might involve five or ten key word searches per application. Assuming that ACCESS becomes available and is searchable in a similar way to CASSIS then similar searches will be carried out in ACCESS. Clearly this will impose additional burdens on EDP staff. The additional use of the optical reader and p.c. will mean that the p.c. will be unable to meet the requirements of examiners and of EDP use.

If the proposed production of the Gazettes (and possibly patent specifications) by EDP is to be carried out effectively then searches for examiners will become an increasing burden on both manpower and p.c. use.

Furthermore if ESPACE becomes available it will consist of SIXTY OPTICAL DISCS/YEAR. There does not appear to be sufficient space in the computer room to accommodate such a number of discs. (ESPACE is not a searchable documentation system in the same way as CASSIS and can better be compared to the microfilm reels on which EP's are currently received.) The EG.P.O. is aware of this limitation.

5) Recommendations for the EP and WO microfilms

That the IT microfilms should be boxed and that the space made available should be used for the EP and WO microfilms.

EP and WO documents are principally in English and the collection is up-to-date. There is no comprehension of Italian in the office, the collection is out-of-date and never used.

6) General recommendations for numerical collections

That possible means of obtaining the important missing 1969-79 range of US patents at acceptable costs should be explored.

That each of the three assistant librarians should be given individual responsibility for a number of specific numerical collections and for reporting to Mr Said whenever any problems involving delivery arise or if missing documents or film reels are detected.

Because numerical collections will form the basis of the search documentation it is essential that these are up-to-date and as complete as possible. It is within the training of the assistant librarians to carry out the routine checking of the collections.

7) Recommendations for German collection

That change to a numerical collection of OS documents on microform is carried out as soon as possible. (A letter has been sent to the German Patent Office.)

That the classified PS collection should be removed from the library to another storage location to allow better access to the remaining material and to provide required space for possible additional US numerical documentation.

That the possibility of rearranging the classified collection to a numerical collection may be considered at a later date.

There is already a serious lack of space in the library. If any more of the important US collection is acquired in paper form the problem will become critical.

There is almost no comprehension of German amongst the examiners and the documents are not consulted systematically, although it is said that they are "sometimes used for the formulae or drawings"

corresponds to a PS and not to an abandoned OS location of the document is impossible without knowing what IPC was applied by the German office.

It is currently estimated that there are at least 75000 documents unsorted or partially sorted. Thus while some 1989 publications are in the search files others from at least as early as 1983 still await final sorting.

The documents continue to arrive at the rate of around 1600 per month. Because they are Patentschriften they do not arrive in numerical order and no response has been received to the request made last year for the documents to be presorted into IPC classes; this would be a costly procedure and it seems unlikely that a positive response will be received.

The collection currently occupies around 25% of the available library space and if the current backlog is sorted and filed the collection will probably occupy around 30% of the space. This will also require resorting of the documents currently present in the classified collection since many of the storage boxes will be unable to accommodate the additional documents.

Given the shortage of space in the library, its low level of use as a search tool and the processing demands of this collection, it seems to be a waste of resources to maintain the DE collection in its present classified form. It has been suggested that in response to a letter from the German patent office agreeing to continue obligations undertaken with the former DD office that a request for all future documentation to be provided in numerical OS microform.

J. Brennan
14 November 1990

PROJECT EGY/86/2004

REPORT ON ASSIGNMENT TO THE EGYPTIAN PATENT OFFICE

AS CONSULTANT IN THE FIELD OF

PATENT DOCUMENTATION MANAGEMENT

CAIRO, 1st NOVEMBER to 15th DECEMBER 1989

BY MR. J. G. STROUD

PATENT EXAMINER IN THE EPO SEARCH DIVISION

TERMS OF REFERENCE

The consultant shall:-

- (a) supervise the reorganization of the patent collections available in the library in accordance with the recommendations of WIPO
- (b) assist in the implementation of information storage and retrieval facilities at the patent office
- (c) assist in the start-up of the technological and documentation services designed according to the recommendations of WIPO
- (d) finalize the implementation of the activities concerning the publications and the information material of the patent office
- (e) train the staff concerned in the above-mentioned fields

SUMMARY OF RECOMMENDATIONS IN ORDER OF PRIORITY

- 1) amend patent law according to the recommendations of WIPO, and maintain dialogue with WIPO during the procedure.
 - 2) order US patents to fill the two small gaps in the existing collection.
 - 3) reorganize the EG and US collections according to the recommendations of Mr.Sarre's and of this report respectively.
 - 4) order WO(PCT) and GB applications on microfilm as specified in this report to complete the existing collections.
 - 5) establish official contact with the EPO w.r.t. CD-ROM collection of EP applications and assistance with classification of EG applications having foreign priority data.
 - 6) explore possibility of obtaining a patent family system and loading this on the EG computer.
 - 7) push ahead with plans to work off the backlog of FPC's for the search files (Front page copies).
 - 8) stop deliveries of non-essential patent/bulletin/gazette material.
 - 9) reconsider the situation with the DE/DD/CH collections.
 - 10) establish formal contact with the National Library facilities w.r.t. obtaining non-patent literature (e.g.Chem.Abs.)
- (details of the above are in the relevant sections of the report)

FORWARD

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As the terms of reference were the same for both consultants, Mr.Sarre and Mr.Stroud, it was decided to divide the tasks as far as possible in order to achieve the most efficient results.

It was decided that both consultants would work on terms (a) to (c) and that Mr.Sarre would on term (d). The staff would be trained in all of the activities undertaken - Term (e).

Concerning terms (a) to (c), Mr.Sarre worked mainly on the EG and DE patents, Mr.Stroud worked mainly on the US and CH patents. Other problems were solved together. All activities were discussed in detail by both consultants with the library staff.

CONTENTS

EG DOCUMENT COLLECTION	PAGE 3
US DOCUMENT COLLECTION	PAGE 4
GB DOCUMENT COLLECTION	PAGE 7
WO DOCUMENT COLLECTION	PAGE 8
EP DOCUMENT COLLECTION	PAGE 9
JP ABSTRACT COLLECTION	PAGE 9
DE DOCUMENT COLLECTION	PAGE 10
FR DOCUMENT COLLECTION	PAGE 10
AU DOCUMENT COLLECTION	PAGE 11
CH DOCUMENT COLLECTION	PAGE 11
DD DOCUMENT COLLECTION	PAGE 12
IT DOCUMENT COLLECTION	PAGE 12
DERWENT COLLECTION	PAGE 12
NON-PATENT LITERATURE	PAGE 13
OTHER COLLECTIONS	PAGE 13
IPC SEARCH FILES	PAGE 14
OTHER REMARKS	PAGE 15
ACKNOWLEDGEMENT	PAGE 16
EG APPLICATION SURVEY	APPENDIX I

EG DOCUMENT COLLECTION

See Mr.Sarre's report.

US DOCUMENT COLLECTION

The library contains over 2 million full text US patents.

The documents are stored systematically but according to several different systems (see my 1988 report).

The US patents are on order and are now received on microfilm.

Inventory:	4,757,441 to 4,807,279	on microfilm, well arranged in numerical order, no gaps.
	4,185,301 to 4,716,593	in paperform (loose & bound), arranged by IPC and by number, minor gap.
	1,999,763 to 3,407,159	paper (A5), badly arranged, inventory not yet possible.

A detailed description for the years 1980 to date is best given with the aid of the following diagram.

YEAR	MICROFILM	NC BOOKS	NC BOXES	IPC BOXES	BOXED
1980	-	-	-	■■■■■	-
1981	-	-	-	■■■■■	-
1982	-	-	-	■■■■■	-
1983	-	-	■■■■■	■■■■■	-
1984	-	-	■■■■■	■■■■■	-
1985	-	■■■■■	■■■■■	■■■■■	:G:
1986	-	■■■■■	■■■■■	-	-
1987	-	■■■■■	-	-	-
1988	■■■■■	-	-	-	-
1989	■■■■■	-	-	-	-

- denotes given year range is only stored here
- " " " " " mainly stored here
- " " " " " partly " "
- :G: " a very small part of year range

US PATENTS 1980-1989

- PART A -starts with ca. no.4,692,899 and ends with no.4,716,593.
- PART B - " " 4,486,300 " " PART A
- PART C - " " 4,378,701 " " 4,692,899
- PART D-F - " " 4,185,301 " " mid-1985
- PART G - ca.10 boxes of US patents (ca.10,000) returned from the bookbinder were found in a disordered state.
- PART H - the new microfilm collection starts with no.4,757,441 and presently extends to no.4,807,279 , & is on order.

US PATENTS BEFORE 1980

Ca. 1.5 million US patents are presently stored by a series of hybrid systems, none of which is arranged properly.

US GAZETTES

Inventory:	3,930,271	to	date	almost complete
	v.942,n.1			
	06/01/1976			
	2,390,040	to	3,685,054	some minor gaps
	v.581,n.1		v.901,n.4	
	04/12/1945		22/08/1972	

PROBLEMS ENCOUNTERED

The hybrid system of storage is too complicated, difficult to use and manage, and in need of systematic reorganization from the recent years right back to the earliest patents.

DURING MISSION

The problems were analysed and solutions proposed to and accepted by the head librarian. The plan was as follows:-

-The gap for nos. 4,716,594 to 4,757,440 would be ordered from the USPTO on microfilm.

-The gap for nos. 4,712,250 to 4,713,859 would be ordered from the USPTO in A4 paperform to complete the NC bound volume collection. (note: front page copies for the search files should be made before binding these patents into books)

-A dividing line was drawn through PART C of the collection, PART C1 being no.4,485,489 and above, PART C2 being no.4,485,488 and below. PART C1 will stay where it is, PART C2 will be sorted by IPC & stored with PARTS E & F. The division between PARTS D & E is the same as for C1 & C2. Hence the first task is to remove PART D from the IPC collection, to sort by number and file together with PARTS A, B & C1. The staff were trained and started work on the first task during the mission. Further supervision will be necessary as the tasks require more than a modicum of concentration.

(note: C1 starts with the first patent published in the gazette that is the first published just before the start of the bound volume collection PART B. This achieves the goal of minimum reorganization yet maximum benefit for the NC and IPC search files alike.)

-PART G belongs to PART B and hence the loose sheets were sorted and stapled together. A final sorting was necessary before the patents could be filed together with PART B. During this task many patents were found that had previously been presumed missing from the books. It transpired that the boxes had come from the bookbinder with the documents in such a bad state that filing was not possible. The problem has now been resolved.

-All old US patents will be stored by number in future. The staff were trained to sort efficiently and succeeded in sorting over 1 million of the old A5 size documents by the first two digits. The task will be continued later to finish all the sorting by the first two digits. After this the sorting by the third digit will commence ...

CONCLUSIONS

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-The reorganization work must continue to the bitter end. The tasks will take a long time to finish under present work input. However it is at last possible to see the US collection taking shape. Further supervision will be necessary.

IT IS RECOMMENDED THAT:-

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- 1) The gap for no.4,716,594 to 4,757,460 be ordered on microfilm.
- 2) The gap for no.4,712,250 to 4,713,859 be ordered in A6 paperform.
- 3) All future orders outside the range of existing paper collections be in microform.
- 4) All patents above no.4,485,488 (PARTS C1 D G) be stored numerically with PARTS A+B.
- 5) All patents below no.4,485,489 and above 4,185,300 be stored by the first printed IPC on the document. (note: The patents can be found by number using the relevant gazette; however if the IPC must be changed then the corresponding gazette IPC entry must also be changed. This occurs with false IPC denotations.)

- 6) Front page copies of patents in PARTS A, B, C1, D, G & H must proceed faster, it is recommended to use contract workers for this as suggested by Prof. Saada. The final sorting and filing in the IPC search files must be done by permanently employed library staff.
- 7) The old US collection should be sorted numerically in stages. It would be possible to use outside help for this under supervision by library staff.
- 8) When the IPC full-text collection is complete this should be filed together with all the other countries for a given IPC and not separately as of present.
- 9) Additions to the NC on microfilm be considered. Quotations should be obtained for a purchase in stages of US patents below number 4,185,301 back eventually to number 3,407,160.
- 10) No further book binding be undertaken unless a fullproof check is firstly made to establish that all patents are present.

GB DOCUMENT COLLECTION

The library contains over ½ million full-text GB patents.

The documents are stored numerically.

The GB patents not on order, but recently a large new collection has been purchased on microfilm.

Inventory: 2,024,601 to 2,205,659	on microfilm, well arranged in numerical order, no gaps.
184,030 to 1,130,485	paper (A5), badly arranged, inventory not yet possible, some gaps.

Abstracts of GB section G1 are presently received but not used.

The GB patent collection is presently not used.

DURING MISSION
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-All boxes found containing GB patents were placed together and space was made to accomodate the paper collection by removing the Derwent collection from the library. The library staff have yet to relabel and file by strict numerical order the collection in its new location. The space created by moving the GB patents is needed for an extension to the microfilming facilities in the library.

-The feasibility of using the G1 abstracts for the search files was studied, but was stopped when it became clear that this was impractical.

IT IS RECOMMENDED THAT:-

- 1) an order be made to receive annually all GB patent applications in microform starting with 1990.
- 2) an order be made to receive the backlog of GB patent applications in microform from no. 2,205,600 to the end of 1989.
- 3) an order be made to purchase GB no. 2,000,001 to 2,026,600 on microfilm to complete the "new law" collection.
- 4) a quotation be obtained for the backlog of GB patent applications in microform from the 1968 cut-off date to the present day of "new law" patents ca. no. 1,100,000-1,605,300 (ca. 500,000 documents).
- 5) the old paper collection be reorganised into a usable NC.
- 6) inventory lists be made of the paper GB collection to establish what is present and what is not, the latter forming order lists that the gaps in the numerical collection can be filled. The order could be for paper patents (A5 size?) and could be done in stages e.g. for the period 1968 back to 1960. (ca. 150,000 documents)
- 7) front page copying should wait until the office has firstly coped with the backlog of FPC's of US, WO & EP.

WO DOCUMENT COLLECTION

The library contains full text WO applications for 1978 to 1988.

The WO applications are not in order, but recently a large new collection has been purchased on microfilm.

Inventory:	1980	to	1988	on microfilm, well arranged in numerical order, no gaps.
	1978	to	1982	paper, arranged by IPC class with several classes mixed together in one box, no gaps.

The documents were stored together with the FR patents in the store room. The present collection is not used.

DURING MISSION

-The EgPO has no room to store the (incomplete) paper collection properly, hence a decision was taken to replace the paper 1978-1979 collection on microfilm. The front pages were salvaged from the 1978-1982 paper documents, and filed as FPC's in the search files after sorting down to sub-group level. The task of making FPC's of the years 1983 to date remains.

IT IS RECOMMENDED THAT:-

- 1) the collection be completed in microform for the years 1978-1979 and for the year 1989.
- 2) an order be placed to receive WO (PCT) patent applications in microform every year starting with 1990.
- 3) FPC's should be made for the years 1983-1988, sorted and filed in the search files. (No. involved ca.35,000 copies)

EP DOCUMENT COLLECTION

The library contains a 1/2 year full range of EP publications (A1-B2) as a sample.

The useful range being the A1+A2 documents no. 250,602 to 264,113.

DURING MISSION

-Contact was made with the EPO w.r.t. CD-ROM supply of EP documents. The result being positive and a sample was despatched. The CD-ROM solution seems to provide the best solution to the EgPO's problem of obtaining a compact EP collection.

-The problem of including EP FPC's in the search files is difficult to solve. The EPO could possibly provide paper FPC's (ca.300,000), but sorted by number. The EgPO would then have to sort and file ca.30 m of single sheet copies -no easy task and timeconsuming. Also the problem of future supply remains. It may be better to defer decisions until it becomes clear whether CD-ROM can be used efficiently enough to create instant search groups.

IT IS RECOMMENDED THAT:-

- 1) The EgPO makes a formal request to the EPO for assistance and for supply of the EP documents on CD-ROM. (Note the EP CD-ROM project is not complete and so only some years are presently available.) The type of EP CD-ROM collection needed is ESPACE.
- 2) The problem of FPC's for the search files be solved at a later date after further study.

JP ABSTRACT COLLECTION

The library contains ca. 1.8 million JP abstracts from 1977 to date, in the standard book form and are stored compactly, arranged by year and then within each year by section (C,E,M,P). The abstracts are not used

IT IS RECOMMENDED THAT:-

- 1) The collection be maintained on order.
- 2) More space be made for future expansion of the collection.
- 3) The abstracts be stored by section and within the section by year

DE DOCUMENT COLLECTION

See Mr.Sarre's report.

IT IS RECOMMENDED THAT:-

- 1) an order for DE patents be maintained, but that the EgPO should seriously consider ordering the Offenlegungsschrift and in microform, preferably microfilm, at the same time cancelling the order for the paper Patentschrift collection.

FR DOCUMENT COLLECTION

The library contains ca. 1 million full-text FR patents, stored mainly numerically and partly by french class.

The FR patents are received on microfilm and are on order.

Inventory:	1973	to	date	on microfilm, well arranged in numerical order, no gaps.
	1960	to	1967	paper, in bound volumes arranged, in numerical order in store room, inventory not yet possible.

Bulletins/gazettes are received but not used.

The FR patent collection is presently not used. No working knowledge of french is evident in the EgPO.

DURING MISSION

-The FR collection was seen for the first time; the store room had to be cleared first.

-The EgPO has no need of FR bulletins for patents which are already systematically arranged, hence they were disposed of to make room in the store room for the Derwent collection removed from the library.

CONCLUSIONS

The FR collection requires further analysis before solid conclusions can be drawn, however the limited value to the EgPO of a paper collection of old FR patents stored by french class is already clear.

IT IS RECOMMENDED THAT:-

- 1) The order of FR patents on microfilm be continued.
- 2) After other more important collections have been reorganized, the FR patents be reorganized such that access by number be possible.
- 3) The delivery of bulletins & gazettes be cancelled immediately.

AU DOCUMENT COLLECTION

The library contains a complete collection of AU documents from 1984 to date on microfiche, & is on order. The collection has yet to be used.

IT IS RECOMMENDED THAT:-

- 1) The collection be maintained since it forms part of the PCT minimum documentation, is in english and requires little space.
- 2) The delivery of bulletins/gazettes be cancelled immediately.

CH DOCUMENT COLLECTION

The library contains an incomplete collection of CH patents mainly for the range 650,00 to 672,249 ;stored on ca. 10m of shelving.

DURING MISSION

-All CH patents that could be found were collected together and sorted by number. Many old patents had been mixed-up with those from FR,DD,DE, GB or US; many new patents were found at the national library.

-A request to the CH office was drafted to redirect all deliveries directly to the EgPO.

IT IS RECOMMENDED THAT:-

- 1) The EgPO consider having a CH collection on microfilm, though it must be stressed that a CH collection will not be used often; hence if the microfilm solution is too expensive, an alternative solution must be sought- the collection could be scrapped or continue to be stored on paper if suitable space is available. (Note: there is no working knowledge of german, french or italian at the EgPO) A definitive solution needs more time; for the moment the EgPO should collect together all CH patents from the various sources and request from the CH office information w.r.t. microfilm.

DD DOCUMENT COLLECTION

The library contains a complete collection of DD patents from 1973 to date on microfiche, and they are on order. The collection is not used. No knowledge of german exists in the EgPO.

IT IS RECOMMENDED THAT:-

- 1) the order be stopped; for even though the space required is small it is nonetheless wasted storage for a collection which is not used nor likely to be used. It should also be recognized that the collection is of limited value to the needs of the EgPO.
- 2) the collection be traded should an interested party be found.

IT DOCUMENT COLLECTION

The library contains a complete, unused, collection of IT patents 1967-1976 on microfilm. No knowledge of italian exists in the EgPO.

IT IS RECOMMENDED THAT:-

- 1) the collection be traded should an interested party be found.

DERWENT COLLECTION

See my previous report from 1988. There is still no access by technical content to the Derwent collection.

DURING MISSION

-The collection was boxed and labelled and removed from a prime library site to the store room.

-It was confirmed that the order had been cancelled for 1989; payment for 1987 & 1988 was to be discussed with Derwent on 23/12/1989.

IT IS RECOMMENDED THAT:-

- 1) the collection be kept in the store room until future needs dictate otherwise. No further work should be invested in the collection at this stage.

NON-PATENT LITERATURE (NPL)

The library does not contain any NPL at present.

DURING MISSION

-As an experiment some specified chemical abstracts were ordered from the National Library facilities. 8 out of 9 photocopies arrived promptly. (They were used by the examiners as relevant prior art to EG patent applications, having been found from corresponding EP search reports.)

CONCLUSION

It has been recommended in the past that the EgPO obtain its own collection of chemical abstracts and other NPL, however this is not considered to be the solution for the EgPO, better would be to save resources and establish an official channel whereby a limited number of copies can be ordered each month by telephone from the National Library.

IT IS RECOMMENDED THAT:-

- 1) A formal link be established with the National Library for the ordering of NPL, when the latter is cited as relevant prior art.

OTHER COLLECTIONS

The library contained numerous incomplete collections of documents (CS,DK,JO,NO,PO,RO,DD) and gazettes (without abstracts;AU,CA,CH,DK,EP,FR,SU) in paper form.

CONCLUSIONS

There has been a tendency to receive all possible material relating to patents when provided free of charge without analysing its usefulness. Fortunately this attitude is no longer present.

DURING MISSION

-The material was carefully sorted and all not useful to the EgPO was discarded, saving valuable shelving space for high priority needs.

-An example of each discarded item was kept so that future deliveries could be cancelled.

IT IS RECOMMENDED THAT:-

- 1) a formal cancellation of delivery of the discarded material be made for each item.
- 2) in future the EgPO limits itself to full-text microform patent document collections of the following countries:
AU, DE, EG, EP, FR, GB, JP, US, WO. (with the possible future addition of documents from other arab countries.) Only if the EgPO has coped with this relatively extensive documentation should it consider expanding to include other countries.

IPC SEARCH FILES

The search files are still in a build-up stage. There is a large backlog of FPC's, even for the US patents. The EgPO must restrict itself to one FPC per patent.

Though the EgPO does not need search files for all technical fields, the practical difficulties involved in making selective search files for key areas are not presently surmountable. Advances in CD-ROM technology could change this. In the meantime the EgPO must make a concentrated effort to work off the backlog of US FPC's, followed perhaps by the WO FPC backlog.

The EgPO's need of extensive search files can be disputed, however so long as the desire to establish an Arab Patenting Office remains, an attempt to create good search files should be made.

IT IS RECOMMENDED THAT:-

- 1) a staff be employed to photocopy and sort by IPC the backlog of FPC's. (These could be temporary staff contracted from outside or present staff from other departments -alternatively some copying could be contracted out, particularly the old patents.)
- 2) in the near future, all presently separate systems to be moved together such that only one file exists in each given IPC sub-group.
- 3) search file content be limited to EG,US,DE and WO at present. In the future the EgPO can consider adding EP and GB to the list (removing DE.)

OTHER REMARKS

The future security of the EgPO rests upon its ability to draft a solid working patent law. The EgPO is most strongly recommended to adopt the WIPO model law and to refrain from hybridizing several different sets of laws.

The EgPO retrieval of patent documents is still crippled by not having a patent family system. This problem must be solved during a later mission.

The computer facilities are at an early stage of development; nonetheless plans can be made to incorporate a modem to allow on-line retrieval of patent families and search reports from other offices.

All new additions to the documentation of the library must be in microform, preferably CD-ROM or microfilm. There is only limited space available, despite reorganization during the mission, which will be needed for the expanding search files, JP abstracts and the old patents.

Future training will be needed in patent document management so that the EgPO can independently analyze and solve its problems. The backlog of reorganization work in the library is immense; few appreciate the size of the problem. The statistics that are kept are of limited value as a basis for future planning, and are sometimes incorrect. Training will be needed in this area.

The EgPO desires to become a patenting office for the Arab world. It is recommended that the EgPO contact Mr.K.Idris at WIPO and the Secretary General of the Federation of Arab Scientific Research Councils (FASRC) in this respect so that resources can be pooled and duplication avoided.

The role of the Innovation Office could be extended to include search assistance to external users, thus relieving the burden on the library staff.

The state of the art search service provided by WIPO for developing countries could be used more. Presently copies of documents sent by WI are only stored in "state of the art search files". It is suggested a copy also be made for the IPC search files.

External users are few; nonetheless statistics on use of the library them should be extended to include the IPC technical fields consulted the type of patent collection consulted (e.g.US/EG/DE/other) and which services were used to improve search results (e.g.WIPO/PFS-INPADOC).

Internal users must be trained to treat the documentation with respect and to develop a sense of personal & collective responsibility for the condition of the search files and NC's. No documents should leave the library, only copies.

-END-

ACKNOWLEDGEMENT

I send my best regards to all those who supported the mission and worked for a brighter future, in particular:-

Prof.Dr.M.Saada Vice-President of the ASRT,
Dr.A.El Sanhoury Under Secretary of State and President of the EgPO
Mr.S.Mousa Head of the Information Dept.(Library),
Mrs.T.Osman Head of the Technical Office to the ASRT,
Mr.A.Eweida Assistant in the Technical Office to the ASRT,

all other staff who so enthusiastically took part in the training and worked so hard,
also to Mrs.N.Bialy Under Secretary of State and President of the Innovation Office of the ASRT for her help and support.

Appendix 1

EG APPLICATION SURVEY

The priority data (mostly from 1985) was noted for 62 EG applications taken from the stock of four technical(search) examiners. Using EPO facilities the IPC and search results could be evaluated thus:-

-priority distribution- US 31;GB 13;JP 6;FR 6;CH 6;DK,DE,SE,WO 1 each.

-no patent family could be created for 6 EG applications (GB 3;JP 3).

-all other 56 could be used for obtaining the IPC from the EPO family databank.

-36 had an EP patent family member, 19 of which had published search results, of the remaining 20, 11 had FR published search results (from the EPO), leaving 9 which all had either GB and/or US search results.

-during the selection of the 62 EG applications ca.10 were put aside as no foreign priority data could be found.

SUMMARY

=====

From 72 EG applications:-

ca.78% had already been assigned an IPC by the EPO

ca.42% had EPO search results already published

ca.13% without EP search results had GB &/or US search results already published.

Appendix F

PATENT HOLDINGS OF THE EGYPTIAN PATENT OFFICE

NUMERICAL COLLECTION

EGY. PATENT OFFICE 0 (APRIL 9 (1994)).

CC	FROM	TO	DOC. TYPES	STATE	STORAGE FORM	YEAR ARRANGE	NOTES
EG	000 001	19186	A/N	INCOMPLETE	PAPER + MICROFICHE	1951- TO DATE	PAPER FROM .. MICROFORM
US 1	300 095	3409080	G.PAT.	ALMOST COMP	A5 PAPER	1920-1968.	NUM.
2	4185301	4716543	G.PAT.	COMP .	A4 PAPER	1980/87	NUM . AND IPC.
3	4716544	5289520	G.PAT.	COMP.	MF.16MM.	1979/1994	NOW.
GB.	2000001 <i>full text</i>	2232861 <i>film</i>	A.	700000 1150420AS.	16 M.M	52-1965 79-90	STOP (1990).
WO	000 001 <i>full text</i>	0 011336 <i>film</i>	A.	COMP.	16.MM. MF.	1979-1990	UP 1990 ON CD-ROM.
EPO	000 001 <i>film</i>	0297090	A1 3	COMP	MF.16MM.		1988 (MF 16 MM.)
		0585214	A ₁ 2	COMP.	MF.16MM		UP. 1988 CD - ROM.
FR.	000 001 <i>film</i>	1509200 <i>full text</i>	G.PAT	COMP.	A4 PAPER	1960. / 1966	
	2185251	2662 900 <i>full text</i>	G.PAT	COMP .	MF.35MM. <i>film</i>	73 UP NOW .	MF 35 MM.

122

STATISTICAL COLLECTION

PATENT OFFICE OF JAPAN (APRIL 9 (1994)).

1991

FROM	TO	DOC. TYPES	STATE	STORAGE FORM	YEAR ARRANGE	NOTES
900 901 <i>full text</i>	973698	PS	NOT, COMP.	A4 PAPER	53/1860	
1813450 <i>full text</i>	3902298	PS	UNDER IPC	A4 <i>paper</i>	68/1990	UP. ON CD-ROM. <i>from 92-pgs.</i>
0146 001 <i>full text</i>	270197	CPS		M.FICHE	70-89	STOP
57816	335595 <i>full text</i>	A.	NOT, COMP. A5.	A5 PAPER	11/47	
335596	681 126 <i>full text</i>	N./A.	" "	A4. PAPER	87/93	
788851 <i>full text</i>	1537251	N./A.	NOT, COMP.	M.F. 16MM. <i>film</i>	67/75	STOP
150012 <i>full text</i>	167850	NOT	M.FICHE.	M.FICHE	75- 1990	UP. NOW .
N .A				ABST.		COMPLETE .
50 / 36279 <i>Japan</i>	5 238 888	A .	COMP.	GAZETTE	77/93	COMP .

NUMERICAL COLLECTION

EGY. PATENT OFFICE 0 (APRIL 9 (1994)).

CC	FROM	TO	DOC. TYPES	STATE	STORAGE FORM	YEAR ARRANGE	NOTES
SEC E	50/36229	5 243 525	A.	COMP.	"	"	COMPLETE,
SEC. H	50/35698	5 240 497	A .	"	"	"	"
SEC.	53/17886	5 240 497	A.	"	"	"	"
		<i>abstracts</i> ↗					

1/2

Appendix G

PATENT COOPERATION TREATY

Patent Cooperation Treaty

Done at Washington on June 19, 1970,
amended on October 2, 1979,
and modified on February 3, 1984

TABLE OF CONTENTS*

<i>Preamble</i>	Article 36: Transmittal, Translation, and Communication, of the International Preliminary Examination Report
<i>Introductory Provisions</i>	Article 37: Withdrawal of Demand or Election
Article 1: Establishment of a Union	Article 38: Confidential Nature of the International Preliminary Examination
Article 2: Definitions	Article 39: Copy, Translation, and Fee, to Elected Offices
<i>Chapter I: International Application and International Search</i>	Article 40: Delaying of National Examination and Other Processing
Article 3: The International Application	Article 41: Amendment of the Claims, the Description, and the Drawings, before Elected Offices
Article 4: The Request	Article 42: Results of National Examination in Elected Office
Article 5: The Description	<i>Chapter III: Common Provisions</i>
Article 6: The Claims	Article 43: Seeking Certain Kinds of Protection
Article 7: The Drawings	Article 44: Seeking Two Kinds of Protection
Article 8: Claiming Priority	Article 45: Regional Patent Treaties
Article 9: The Applicant	Article 46: Incorrect Translation of the International Application
Article 10: The Receiving Office	Article 47: Time Limits
Article 11: Filing Date and Effects of the International Application	Article 48: Delay in Meeting Certain Time Limits
Article 12: Transmittal of the International Application to the International Bureau and the International Searching Authority	Article 49: Right to Practice before International Authorities
Article 13: Availability of Copy of the International Application to Designated Offices	<i>Chapter IV: Technical Services</i>
Article 14: Certain Defects in the International Application	Article 50: Patent Information Services
Article 15: The International Search	Article 51: Technical Assistance
Article 16: The International Searching Authority	Article 52: Relations with Other Provisions of the Treaty
Article 17: Procedure before the International Searching Authority	<i>Chapter V: Administrative Provisions</i>
Article 18: The International Search Report	Article 53: Assembly
Article 19: Amendment of the Claims before the International Bureau	Article 54: Executive Committee
Article 20: Communication to Designated Offices	Article 55: International Bureau
Article 21: International Publication	Article 56: Committee for Technical Cooperation
Article 22: Copy, Translation, and Fee, to Designated Offices	Article 57: Finances
Article 23: Delaying of National Procedure	Article 58: Regulations
Article 24: Possible Loss of Effect in Designated States	<i>Chapter VI: Disputes</i>
Article 25: Review by Designated Offices	Article 59: Disputes
Article 26: Opportunity to Correct before Designated Offices	<i>Chapter VII: Revision and Amendment</i>
Article 27: National Requirements	Article 60: Revision of the Treaty
Article 28: Amendment of the Claims, the Description, and the Drawings, before Designated Offices	Article 61: Amendment of Certain Provisions of the Treaty
Article 29: Effects of the International Publication	<i>Chapter VIII: Final Provisions</i>
Article 30: Confidential Nature of the International Application	Article 62: Becoming Party to the Treaty
<i>Chapter II: International Preliminary Examination</i>	Article 63: Entry into Force of the Treaty
Article 31: Demand for International Preliminary Examination	Article 64: Reservations
Article 32: The International Preliminary Examining Authority	Article 65: Gradual Application
Article 33: The International Preliminary Examination	Article 66: Denunciation
Article 34: Procedure before the International Preliminary Examining Authority	Article 67: Signature and Languages
Article 35: The International Preliminary Examination Report	Article 68: Depository Functions
	Article 69: Notifications

*This Table of Contents is added for the convenience of the reader. It does not appear in the signed text of the Treaty.

Patent Cooperation Treaty

The Contracting States,

Desiring to make a contribution to the progress of science and technology,

Desiring to perfect the legal protection of inventions,

Desiring to simplify and render more economical the obtaining or protection for inventions where protection is sought in several countries,

Desiring to facilitate and accelerate access by the public to the technical information contained in documents describing new inventions,

Desiring to foster and accelerate the economic development of developing countries through the adoption of measures designed to increase the efficiency of their legal systems, whether national or regional, instituted for the protection of inventions by providing easily accessible information on the availability of technological solutions applicable to their special needs and by facilitating access to the ever expanding volume of modern technology.

Convinced that cooperation among nations will greatly facilitate the attainment of these aims,

Have concluded the present Treaty.

Introductory Provisions

ARTICLE 1

Establishment of a Union

(1) The States party to this Treaty (hereinafter called "the Contracting States") constitute a Union for cooperation in the filing, searching, and examination, of applications for the protection of inventions, and for rendering special technical services. The Union shall be known as the International Patent Cooperation Union.

(2) No provision of this Treaty shall be interpreted as diminishing the rights under the Paris Convention for the Protection of Industrial Property of any national or resident of any country party to that convention.

ARTICLE 2

Definitions

For the purposes of this Treaty and the Regulations and unless expressly stated otherwise:

(i) "application" means an application for the protection of an invention; references to an "application" shall be construed as references to applications for patents for inventions, inventors' certificates, utility certificates, utility models, patents or certificates of addition, inventors' certificates of addition, and utility certificates of addition;

(ii) references to a "patent" shall be construed as references to patents for inventions, inventors' certificates, utility certificates, utility models, patents or certificates of addition, inventors' certificates of addition, and utility certificates of addition;

(iii) "national patent" means a patent granted by a national authority;

(iv) "regional patent" means a patent granted by a national or an intergovernmental authority having

the power to grant patents effective in more than State;

(v) "regional application" means an application for a regional patent;

(vi) references to a "national application" shall be construed as references to applications for national patents and regional patents, other than applications filed under this Treaty;

(vii) "international application" means an application filed under this Treaty;

(viii) references to an "application" shall be construed as references to international applications and national applications;

(ix) references to a "patent" shall be construed as references to national patents and regional patents;

(x) references to "national law" shall be construed as references to the national law of a Contracting State or, where a regional application or a regional patent is involved, to the treaty providing for filing of regional applications or the granting of regional patents;

(xi) "priority date," for the purposes of coming time limits, means:

(a) where the international application contains a priority claim under Article 8, the filing date of application whose priority is so claimed;

(b) where the international application contains several priority claims under Article 8, the filing date of the earliest application whose priority is claimed;

(c) where the international application does not contain any priority claim under Article 8, the national filing date of such application;

(xii) "national Office" means the governmental authority of a Contracting State entrusted with the granting of patents; references to a "national Office" shall be construed as referring also to any intergovernmental authority which several States have entrusted with the task of granting regional patents, provided that at least one of those States is a Contracting State, and provided that the said States have authorized that authority to assume the obligations and exercise the powers which this Treaty and the Regulations provide for in respect of national Offices;

(xiii) "designated Office" means the national Office of or acting for the State designated by the applicant under Chapter I of this Treaty;

(xiv) "elected Office" means the national Office of or acting for the State elected by the applicant under Chapter II of this Treaty;

(xv) "receiving Office" means the national Office or the intergovernmental organization with which international application has been filed;

(xvi) "Union" means the International Patent Cooperation Union;

(xvii) "Assembly" means the Assembly of the Union;

(xviii) "Organization" means the World Intellectual Property Organization;

(xix) "International Bureau" means the International Bureau of the Organization and, as long as it subsists, the United International Bureau for the Protection of Intellectual Property (BIRPI);

(xx) "Director General" means the Director General of the Organization and, as long as BIRPI subsists, the Director of BIRPI.

Chapter I International Application and International Search

ARTICLE 3

The International Application

(1) Applications for the protection of inventions in any of the Contracting States may be filed as international applications under this Treaty.

(2) An international application shall contain, as specified in this Treaty and the Regulations, a request, a description, one or more claims, one or more drawings (where required), and an abstract.

(3) The abstract merely serves the purpose of technical information and cannot be taken into account for any other purpose, particularly not for the purpose of interpreting the scope of the protection sought.

(4) The international application shall:

- (i) be in a prescribed language;
- (ii) comply with the prescribed physical requirements;
- (iii) comply with the prescribed requirement of unity of invention;
- (iv) be subject to the payment of the prescribed fees.

ARTICLE 4

The Request

(1) The request shall contain:

(i) a petition to the effect that the international application be processed according to this Treaty;

(ii) the designation of the Contracting State or States in which protection for the invention is desired on the basis of the international application ("designated States"); if for any designated State a regional patent is available and the applicant wishes to obtain a regional patent rather than a national patent, the request shall so indicate; if, under a treaty concerning a regional patent, the applicant cannot limit his application to certain of the States party to that treaty, designation of one of those States and the indication of the wish to obtain the regional patent shall be treated as designation of all the States party to that treaty; if, under the national law of the designated State, the designation of that State has the effect of an application for a regional patent, the designation of the said State shall be treated as an indication of the wish to obtain the regional patent;

(iii) the name of and other prescribed data concerning the applicant and the agent (if any);

(iv) the title of the invention;

(v) the name of and other prescribed data concerning the inventor where the national law of at least one of the designated States requires that these indications be furnished at the time of filing a national

application. Otherwise, the said indications may be furnished either in the request or in separate notices addressed to each designated Office whose national law requires the furnishing of the said indications but allows that they be furnished at a time later than that of the filing of a national application.

(2) Every designation shall be subject to the payment of the prescribed fee within the prescribed time limit.

(3) Unless the applicant asks for any of the other kinds of protection referred to in Article 43, designation shall mean that the desired protection consists of the grant of a patent by or for the designated State. For the purposes of this paragraph, Article 2(ii) shall not apply.

(4) Failure to indicate in the request the name and other prescribed data concerning the inventor shall have no consequence in any designated State whose national law requires the furnishing of the said indications but allows that they be furnished at a time later than that of the filing of a national application. Failure to furnish the said indications in a separate notice shall have no consequence in any designated State whose national law does not require the furnishing of the said indications.

ARTICLE 5

The Description

The description shall disclose the invention in a manner sufficiently clear and complete for the invention to be carried out by a person skilled in the art.

ARTICLE 6

The Claims

The claim or claims shall define the matter for which protection is sought. Claims shall be clear and concise. They shall be fully supported by the description.

ARTICLE 7

The Drawings

(1) Subject to the provisions of paragraph (2)(ii), drawings shall be required when they are necessary for the understanding of the invention.

(2) Where, without being necessary for the understanding of the invention, the nature of the invention admits of illustration by drawings:

(i) the applicant may include such drawings in the international application when filed,

(ii) any designated Office may require that the applicant file such drawings with it within the prescribed time limit.

ARTICLE 8

Claiming Priority

(1) The international application may contain a declaration, as prescribed in the Regulations, claiming the priority of one or more earlier applications filed in or for any country party to the Paris Convention for the Protection of Industrial Property.

(2)(a) Subject to the provisions of subparagraph (b), the conditions for, and the effect of, any priority claim declared under paragraph (1) shall be as provided in Article 4 of the Stockholm Act of the Paris Convention for the Protection of Industrial Property.

(b) The international application for which the priority of one or more earlier applications filed in or for a Contracting State is claimed may contain the designation of that State. Where, in the international application, the priority of one or more national applications filed in or for a designated State is claimed, or where the priority of an international application having designated only one State is claimed, the conditions for, and the effect of, the priority claim in that State shall be governed by the national law of that State.

ARTICLE 9

The Applicant

(1) Any resident or national of a Contracting State may file an international application.

(2) The Assembly may decide to allow the residents and the nationals of any country party to the Paris Convention for the Protection of Industrial Property which is not party to this Treaty to file international applications.

(3) The concepts of residence and nationality, and the application of those concepts in cases where there are several applicants or where the applicants are not the same for all the designated States, are defined in the Regulations.

ARTICLE 10

The Receiving Office

The international application shall be filed with the prescribed receiving Office, which will check and process it as provided in this Treaty and the Regulations.

ARTICLE 11

Filing Date and Effects of the International Application

(1) The receiving Office shall accord as the international filing date the date of receipt of the international application, provided that that Office has found that, at the time of receipt:

(i) the applicant does not obviously lack, for reasons of residence or nationality, the right to file an international application with the receiving Office,

(ii) the international application is in the prescribed language.

(iii) the international application contains at least the following elements:

(a) an indication that it is intended as an international application,

(b) the designation of at least one Contracting State,

(c) the name of the applicant, as prescribed,

(d) a part which on the face of it appears to be a description,

(e) a part which on the face of it appears to be a claim or claims.

(2)(a) If the receiving Office finds that the international application did not, at the time of receipt, fulfill the requirements listed in paragraph (1), it shall, provided in the Regulations, invite the applicant to file the required correction.

(b) If the applicant complies with the invitation as provided in the Regulations, the receiving Office shall accord as the international filing date the date of receipt of the required correction.

(3) Subject to Article 64(4), any international application fulfilling the requirements listed in items (i) to (iii) of paragraph (1) and accorded an international filing date shall have the effect of a regular national application in each designated State as of the international filing date, which date shall be considered to be the actual filing date in each designated State.

(4) Any international application fulfilling the requirements listed in items (i) to (iii) of paragraph (1) shall be equivalent to a regular national filing with the meaning of the Paris Convention for the Protection of Industrial Property.

ARTICLE 12

Transmittal of the International Application to the International Bureau and the International Searching Authority

(1) One copy of the international application shall be kept by the receiving Office ("home copy"), one copy ("record copy") shall be transmitted to the International Bureau, and another copy ("search copy") shall be transmitted to the competent International Searching Authority referred to in Article 14 as provided in the Regulations.

(2) The record copy shall be considered the true copy of the international application.

(3) The international application shall be considered withdrawn if the record copy has not been received by the International Bureau within the prescribed time limit.

ARTICLE 13

Availability of Copy of the International Application to Designated Offices

(1) Any designated office may ask the International Bureau to transmit to it a copy of the international application prior to the communication provided for in Article 20, and the International Bureau shall transmit such copy to the designated Office as soon as possible after the expiration of one year from the priority date.

(2)(a) The applicant may, at any time, transmit a copy of his international application to any designated Office.

(b) The applicant may, at any time, ask the International Bureau to transmit a copy of his international application to any designated Office, and the International Bureau shall transmit such copy to the designated Office as soon as possible.

(c) Any national Office may notify the International Bureau that it does not wish to receive copies as provided for in subparagraph (b), in which case that subparagraph shall not be applicable in respect of that Office.

ARTICLE 14

Certain Defects in the International Application

(1)(a) The receiving Office shall check whether the international application contains any of the following defects, that is to say:

- (i) it is not signed as provided in the Regulations;
- (ii) it does not contain the prescribed indications concerning the applicant;
- (iii) it does not contain a title;
- (iv) it does not contain an abstract;
- (v) it does not comply to the extent provided in the Regulations with the prescribed physical requirements.

(b) If the receiving Office finds any of the said defects, it shall invite the applicant to correct the international application within the prescribed time limit, failing which that application shall be considered withdrawn and the receiving Office shall so declare.

(2) If the international application refers to drawings which, in fact, are not included in that application, the receiving Office shall notify the applicant accordingly and he may furnish them within the prescribed time limit and, if he does, the international filing date shall be the date on which the drawings are received by the receiving Office. Otherwise, any reference to the said drawings shall be considered non-existent.

(3)(a) If the receiving Office finds that, within the prescribed time limits, the fees prescribed under Article 3(4)(iv) have not been paid, or no fee prescribed under Article 4(2) has been paid in respect of any of the designated States, the international application shall be considered withdrawn and the receiving Office shall so declare.

(b) If the receiving Office finds that the fee prescribed under Article 4(2) has been paid in respect of one or more (but less than all) designated States within the prescribed time limit, the designation of those States in respect of which it has not been paid within the prescribed time limit shall be considered withdrawn and the receiving Office shall so declare.

(4) If, after having accorded an international filing date to the international application, the receiving Office finds, within the prescribed time limit, that any of the requirements listed in items (i) to (iii) of Article 11(1) was not complied with at that date, the said ap-

plication shall be considered withdrawn and the receiving Office shall so declare.

ARTICLE 15

The International Search

(1) Each international application shall be the subject of international search.

(2) The objective of the international search is to discover relevant prior art.

(3) International search shall be made on the basis of the claims, with due regard to the description and the drawings (if any).

(4) The International Searching Authority referred to in Article 16 shall endeavor to discover as much of the relevant prior art as its facilities permit, and shall, in any case, consult the documentation specified in the Regulations.

(5)(a) If the national law of the Contracting State so permits, the applicant who files a national application with the national Office of or acting for such State may, subject to the conditions provided for in such law, request that a search similar to an international search ("international-type search") be carried out on such application.

(b) If the national law of the Contracting State so permits, the national Office of or acting for such State may subject any national application filed with it to an international-type search.

(c) The international-type search shall be carried out by the International Searching Authority referred to in Article 16 which would be competent for an international search if the national application were an international application and were filed with the Office referred to in subparagraphs (a) and (b). If the national application is in a language which the International Searching Authority considers it is not equipped to handle, the international-type search shall be carried out on a translation prepared by the applicant in a language prescribed for international applications and which the International Searching Authority has undertaken to accept for international applications. The national application and the translation, when required, shall be presented in the form prescribed for international applications.

ARTICLE 16

The International Searching Authority

(1) International search shall be carried out by an International Searching Authority, which may be either a national Office or an intergovernmental organization, such as the International Patent Institute, whose tasks include the establishing of documentary search reports on prior art with respect to inventions which are the subject of applications.

(2) If, pending the establishment of a single International Searching Authority, there are several International Searching Authorities, each receiving Office shall, in accordance with the provisions of the applicable agreement referred to in paragraph (3)(b), specify the International Searching Authority or Authori-

ties competent for the searching of international applications filed with such Office.

(3)(a) International Searching Authorities shall be appointed by the Assembly. Any national Office and any intergovernmental organization satisfying the requirements referred to in subparagraph (c) may be appointed as International Searching Authority.

(b) Appointment shall be conditional on the consent of the national Office or intergovernmental organization to be appointed and the conclusion of an agreement, subject to approval by the Assembly, between such Office or organization and the International Bureau. The agreement shall specify the rights and obligations of the parties, in particular, the formal undertaking by the said Office or organization to apply and observe all the common rules of international search.

(c) The Regulations prescribe the minimum requirements, particularly as to manpower and documentation, which any Office or organization must satisfy before it can be appointed and must continue to satisfy while it remains appointed.

(d) Appointment shall be for a fixed period of time and may be extended for further periods.

(e) Before the Assembly makes a decision on the appointment of any national Office or intergovernmental organization, or on the extension of its appointment, or before it allows any such appointment to lapse, the Assembly shall hear the interested Office or organization and seek the advice of the Committee for Technical Cooperation referred to in Article 56 once that Committee has been established.

ARTICLE 17

Procedure before the International Searching Authority

(1) Procedure before the International Searching Authority shall be governed by the provisions of this Treaty, the Regulations, and the agreement which the International Bureau shall conclude, subject to this treaty and the Regulations, with the said Authority.

(2)(a) If the International Searching Authority considers

(i) that the international application relates to a subject matter which the International Searching Authority is not required, under the Regulations, to search, and in the particular case decides not to search, or

(ii) that the description, the claims, or the drawings, fail to comply with the prescribed requirements to such an extent that a meaningful search could not be carried out,

the said Authority shall so declare and shall notify the applicant and the International Bureau that no international search report will be established.

(b) If any of the situations referred to in subparagraph (a) is found to exist in connection with certain claims only, the international search report shall so indicate in respect of such claims, whereas, for the other claims, the said report shall be established as provided in Article 18.

(3)(a) If the International Searching Authority considers that the international application does not

comply with the requirement of unity of invention set forth in the Regulations, it shall invite the applicant to pay additional fees. The International Searching Authority shall establish the international search report on those parts of the international application which relate to the invention first mentioned in claims ("main invention") and, provided the required additional fees have been paid within the prescribed time limit, on those parts of the international application which relate to inventions in respect of which said fees were paid.

(b) The national law of any designated State provide that, where the national Office of that State finds the invitation, referred to in subparagraph (a), the International Searching Authority justified where the applicant has not paid all additional fees on those parts of the international application which subsequently have not been searched shall, as far as respects in that State are concerned, be considered as withdrawn unless a special fee is paid by the applicant to the national Office of that State.

ARTICLE 18

The International Search Report

(1) The international search report shall be established within the prescribed time limit and in the prescribed form.

(2) The international search report shall, as soon as it has been established, be transmitted by the International Searching Authority to the applicant and the International Bureau.

(3) The international search report or the decision referred to in Article 17(2)(a) shall be translated as provided in the Regulations. The translations shall be prepared by or under the responsibility of the International Bureau.

ARTICLE 19

Amendment of the Claims before the International Bureau

(1) The applicant shall, after having received the international search report, be entitled to one opportunity to amend the claims of the international application by filing amendments with the International Bureau within the prescribed time limit. He may, at the same time, file a brief statement, as provided in the Regulations, explaining the amendments and indicating any impact that such amendments might have on the description and the drawings.

(2) The amendments shall not go beyond the disclosure in the international application as filed.

(3) If the national law of any designated State prohibits amendments to go beyond the said disclosure, failure to comply with paragraph (2) shall have no consequence in that State.

ARTICLE 20

Communication to Designated Offices

(1)(a) The international application, together with the international search report (including any in-

(iii) if the applicant fails to perform the acts referred to in Article 22 within the applicable time limit.

(2) Notwithstanding the provisions of paragraph (1), any designated Office may maintain the effect provided for in Article 11(3) even where such effect is not required to be maintained by virtue of Article 25(2).

ARTICLE 25

Review by Designated Offices

(1)(a) Where the receiving Office has refused to accord an international filing date or has declared that the international application is considered withdrawn, or where the International Bureau has made a finding under Article 12(3), the International Bureau shall promptly send, at the request of the applicant, copies of any document in the file to any of the designated Offices named by the applicant.

(b) Where the receiving Office has declared that the designation of any given State is considered withdrawn, the International Bureau shall promptly send, at the request of the applicant, copies of any document in the file to the national Office of such State.

(c) The request under subparagraphs (a) or (b) shall be presented within the prescribed time limit.

(2)(a) Subject to the provisions of subparagraph (b), each designated Office shall, provided that the national fee (if any) has been paid and the appropriate translation (as prescribed) has been furnished within the prescribed time limit, decide whether the refusal, declaration, or finding, referred to in paragraph (1) was justified under the provisions of this Treaty and the Regulations, and, if it finds that the refusal or declaration was the result of an error or omission on the part of the receiving Office or that the finding was the result of an error or omission on the part of the International Bureau, it shall, as far as effects in the State of the designated Office are concerned, treat the international application as if such error or omission had not occurred.

(b) Where the record copy has reached the International Bureau after the expiration of the time limit prescribed under Article 12(3) on account of any error or omission on the part of the applicant, the provisions of subparagraph (a) shall apply only under the circumstances referred to in Article 48(2).

ARTICLE 26

Opportunity to Correct before Designated Offices

No designated Office shall reject an international application on the grounds of non-compliance with the requirements of this Treaty and the Regulations without first giving the applicant the opportunity to correct the said application to the extent and according to the procedure provided by the national law for the same or comparable situations in respect of national applications.

ARTICLE 27

National Requirements

(1) No national law shall require compliance with requirements relating to the form or contents of the international application different from or additional to those which are provided for in this Treaty and the Regulations.

(2) The provisions of paragraph (1) neither affect the application of the provisions of Article 7(2) nor preclude any national law from requiring, once the processing of the international application has started in the designated Office, the furnishing:

(i) when the applicant is a legal entity, of the name of an officer entitled to represent such legal entity,

(ii) of documents not part of the international application but which constitute proof of allegations or statements made in that application, including the confirmation of the international application by the signature of the applicant when that application, if filed, was signed by his representative or agent.

(3) Where the applicant, for the purposes of a designated State, is not qualified according to the national law of that State to file a national application because he is not the inventor, the international application may be rejected by the designated Office.

(4) Where the national law provides, in respect of the form or contents of national applications, for requirements which, from the viewpoint of applicants, are more favorable than the requirements provided for by this Treaty and the Regulations in respect of international applications, the national Office, courts and any other competent organs of or act for the designated State may apply the former requirements, instead of the latter requirements, to international applications, except where the applicant insists that the requirements provided for by this Treaty and the Regulations be applied to his international application.

(5) Nothing in this Treaty and the Regulations is intended to be construed as prescribing anything that would limit the freedom of each Contracting State to prescribe such substantive conditions of patentability as it desires. In particular, any provision in this Treaty and the Regulations concerning the definition of patentability is exclusively for the purposes of the international procedure and, consequently, any Contracting State is free to apply, when determining the patentability of an invention claimed in an international application, the criteria of its national law in respect of prior art and other conditions of patentability not constituting requirements as to the form and contents of applications.

(6) The national law may require that the applicant furnish evidence in respect of any substantive condition of patentability prescribed by such law.

(7) Any receiving Office or, once the processing of the international application has started in the designated Office, that Office, may apply the national law as far as it relates to any requirements that the applicant

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

(8) Nothing in this Treaty and the Regulations is intended to be construed as limiting the freedom of any Contracting State to apply measures deemed necessary for the preservation of its national security or to limit, for the protection of the general economic interests of that State, the right of its own residents or nationals to file international applications.

ARTICLE 28

Amendment of the Claims, the Description, and the Drawings, before Designated Offices

(1) The applicant shall be given the opportunity to amend the claims, the description, and the drawings, before each designated Office within the prescribed time limit. No designated Office shall grant a patent, or refuse the grant of a patent, before such time limit has expired except with the express consent of the applicant.

(2) The amendments shall not go beyond the disclosure in the international application as filed unless the national law of the designated State permits them to go beyond the said disclosure.

(3) The amendments shall be in accordance with the national law of the designated State in all respects not provided for in this Treaty and the Regulations.

(4) Where the designated Office requires a translation of the international application, the amendments shall be in the language of the translation.

ARTICLE 29

Effects of the International Publication

(1) As far as the protection of any rights of the applicant in a designated State is concerned, the effects, in that State, of the international publication of an intentional application shall, subject to the provisions of paragraphs (2) to (4), be the same as those which the national law of the designated State provides for the compulsory national publication of unexamined national applications as such.

(2) If the language in which the international publication has been effected is different from the language in which publications under the national law are effected in the designated State, the said national law may provide that the effects provided for in paragraph (1) shall be applicable only from such time as:

- (i) a translation into the latter language has been published as provided by the national law, or
- (ii) a translation into the latter language has been made available to the public, by laying open for public inspection as provided by the national law, or
- (iii) a translation into the latter language has been transmitted by the applicant to the actual or prospective unauthorized user of the invention claimed in the international application, or

(iv) both the acts described in (i) and (iii), or both the acts described in (ii) and (iii), have taken place.

(3) The national law of any designated State may provide that, where the international publication has

been effected, on the request of the applicant, before the expiration of 18 months from the priority date, the effects provided for in paragraph (1) shall be applicable only from the expiration of 18 months from the priority date.

(4) The national law of any designated State may provide that the effects provided for in paragraph (1) shall be applicable only from the date on which copy of the international application as published under Article 21 has been received in the national Office of or acting for such State. The said Office shall publish the date of receipt in its gazette as soon as possible.

ARTICLE 30

Confidential Nature of the International Application

(1)(a) Subject to the provisions of subparagraph (b) the International Bureau and the International Searching Authorities shall not allow access by any person or authority to the international application before the international publication of that application, unless requested or authorized by the applicant.

(b) The provisions of subparagraph (a) shall not apply to any transmittal to the competent International Searching Authority, to transmittals provided for under Article 13, and to communications provided for under Article 20.

(2)(a) No national Office shall allow access to the international application by third parties, unless requested or authorized by the applicant, before the earliest of the following dates:

- (i) date of the international publication of the international application,
- (ii) date of the receipt of the communication of the international application under Article 20,
- (iii) date of the receipt of a copy of the international application under Article 22.

(b) The provisions of subparagraph (a) shall not prevent any national Office from informing third parties that it had been designated, or from publishing that fact. Such information or publication may, however, contain only the following data: identification of the receiving Office, name of the applicant, international filing date, international application number and title of the invention.

(c) The provisions of subparagraph (a) shall not prevent any designated Office from allowing access to the international application for the purposes of the judicial authorities.

(3) The provision of paragraph (2)(a) shall apply to any receiving Office except as far as transmittals provided for under Article 12(1) are concerned.

(4) For the purposes of this Article, the term "access" covers any means by which third parties may acquire cognizance, including individual communication and general publication, provided, however that no national Office shall generally publish an international application or its translation before the international publication or, if international publication has not taken place by the expiration of 20 months from the priority date, before the expiration of 20 months from the said priority date.

Chapter II International Preliminary Examination

ARTICLE 31

Demand for International Preliminary Examination

(1) On the demand of the applicant, his international application shall be the subject of an international preliminary examination as provided in the following provisions and the Regulations.

(2)(a) Any applicant who is a resident or national, as defined in the Regulations, of a Contracting State bound by Chapter II, and whose international application has been filed with the receiving Office of or acting for such State, may make a demand for international preliminary examination.

(b) The Assembly may decide to allow persons entitled to file international applications to make a demand for international preliminary examination even if they are residents or nationals of a State not party to this Treaty or not bound by Chapter II.

(3) The demand for international preliminary examination shall be made separately from the international application. The demand shall contain the prescribed particulars and shall be in the prescribed language and form.

(4)(a) The demand shall indicate the Contracting State or States in which the applicant intends to use the results of the international preliminary examination ("elected States"). Additional Contracting States may be elected later. Election may relate only to Contracting States already designated under Article 4.

(b) Applicants referred to in paragraph (2)(a) may elect any Contracting State bound by Chapter II. Applicants referred to in paragraph (2)(b) may elect only such Contracting States bound by Chapter II as have declared that they are prepared to be elected by such applicants.

(5) The demand shall be subject to the payment of the prescribed fees within the prescribed time limit.

(6) The demand shall be submitted to the competent International Preliminary Examining Authority referred to in Article 32.

(b) Any later election shall be submitted to the International Bureau.

(7) Each elected Office shall be notified of its election.

ARTICLE 32

The International Preliminary Examining Authority

(1) International preliminary examination shall be carried out by the International Preliminary Examining Authority.

(2) In the case of demands referred to in Article 31(2)(a), the receiving Office, and, in the case of demands referred to in Article 31(2)(b), the Assembly, shall, in accordance with the applicable agreement between the interested International Preliminary Examining Authority or Authorities and the International Bureau, specify the International Preliminary Examining

Authority or Authorities competent for the preliminary examination.

(3) The provisions of Article 16(3) shall apply, *tatis mutandis*, in respect of International Preliminary Examining Authorities.

ARTICLE 33

The International Preliminary Examination

(1) The objective of the international preliminary examination is to formulate a preliminary and binding opinion on the questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), and to be industrially applicable.

(2) For the purposes of the international preliminary examination, a claimed invention shall be considered novel if it is not anticipated by the prior art as defined in the Regulations.

(3) For the purposes of the international preliminary examination, a claimed invention shall be considered to involve an inventive step if, having regard to the prior art as defined in the Regulations, it is not obvious to a person skilled in the art.

(4) For the purposes of the international preliminary examination, a claimed invention shall be considered industrially applicable if, according to its nature, it can be made or used (in the technological sense) in any kind of industry. "Industry" shall be understood in its broadest sense, as in the Paris Convention for the Protection of Industrial Property.

(5) The criteria described above merely serve the purposes of international preliminary examination. Any Contracting State may apply additional or different criteria for the purpose of deciding whether that State, the claimed invention is patentable or not.

(6) The international preliminary examination shall take into consideration all the documents cited in the international search report. It may take into consideration any additional documents considered to be relevant in the particular case.

ARTICLE 34

Procedure before the International Preliminary Examining Authority

(1) Procedure before the International Preliminary Examining Authority shall be governed by the provisions of this Treaty, the Regulations, and the agreement which the International Bureau shall conclude with the International Preliminary Examining Authority, subject to this Treaty and the Regulations, with said Authority.

(2)(a) The applicant shall have a right to communicate orally and in writing with the International Preliminary Examining Authority.

(b) The applicant shall have a right to amend the claims, the description, and the drawings, in the prescribed manner and within the prescribed time

before the international preliminary examination report is established. The amendment shall not go beyond the disclosure in the international application as filed.

(c) The applicant shall receive at least one written opinion from the International Preliminary Examining Authority unless such Authority considers that all of the following conditions are fulfilled:

(i) The invention satisfies the criteria set forth in Article 33(1),

(ii) the international application complies with the requirements of this Treaty and the Regulations in so far as checked by that Authority,

(iii) no observations are intended to be made under Article 35(2), last sentence.

(d) The applicant may respond to the written opinion.

(3)(a) If the International Preliminary Examining Authority considers that the international application does not comply with the requirement of unity of invention as set forth in the Regulations, it may invite the applicant, at his option, to restrict the claims so as to comply with the requirement or to pay additional fees.

(b) The national law of any elected State may provide that, where the applicant chooses to restrict the claims under subparagraph (a), those parts of the international application which, as a consequence of the restriction, are not to be the subject of international preliminary examination shall, as far as effects in that State are concerned, be considered withdrawn unless a special fee is paid by the applicant to the national Office of that State.

(c) If the applicant does not comply with the invitation referred to in subparagraph (a) within the prescribed time limit, the International Preliminary Examining Authority shall establish an international preliminary examination report on those parts of the international application which relate to what appears to be the main invention and shall indicate the relevant facts in the said report. The national law of any elected State may provide that, where its national Office finds the invitation of the International Preliminary Examining Authority justified, those parts of the international application which do not relate to the main invention shall, as far as effects in that State are concerned, be considered withdrawn unless a special fee is paid by the applicant to that Office.

(4)(a) If the International Preliminary Examining Authority considers

(i) that the international application relates to a subject matter on which the International Preliminary Examining Authority is not required, under the Regulations, to carry out an international preliminary examination, and in the particular case decides not to carry out such examination, or

(ii) that the description, the claims, or the drawings, are so unclear, or the claims are so inadequately supported by the description, that no meaningful opinion can be formed on the novelty, inventive step (non-obviousness), or industrial applicability, of the claimed invention, the said Authority shall not

go into the questions referred to in Article 33(1) and shall inform the applicant of this opinion and the reasons therefor.

(b) If any of the situations referred to in subparagraph (a) is found to exist in, or in connection with certain claims only, the provisions of that subparagraph shall apply only to the said claims.

ARTICLE 35

The International Preliminary Examination Report

(1) The international preliminary examination report shall be established within the prescribed time limit and in the prescribed form.

(2) The international preliminary examination report shall not contain any statement on the question whether the claimed invention is or seems to be patentable or unpatentable according to any national law. It shall state, subject to the provisions of paragraph (3), in relation to each claim, whether the claim appears to satisfy the criteria of novelty, inventive step (non-obviousness), and industrial applicability, as defined for the purposes of the international preliminary examination in Article 33(1) to (4). The statement shall be accompanied by the citation of the document believed to support the stated conclusion with such explanations as the circumstances of the case may require. The statement shall also be accompanied by such other observations as the Regulations provide for.

(3)(a) If, at the time of establishing the international preliminary examination report, the International Preliminary Examining Authority considers that any of the situations referred to in Article 34(4)(a) exists, the report shall state this opinion and the reasons therefor. It shall not contain any statement as provided in paragraph (2).

(b) If a situation under Article 34(4)(b) is found to exist, the international preliminary examination report shall, in relation to the claims in question, contain the statement as provided in subparagraph (a) whereas, in relation to the other claims, it shall contain the statement as provided in paragraph (2).

ARTICLE 36

Transmittal, Translation, and Communication, of the International Preliminary Examination Report

(1) The international preliminary examination report, together with the prescribed annexes, shall be transmitted to the applicant and to the International Bureau.

(2)(a) The international preliminary examination report and its annexes shall be translated into the prescribed languages.

(b) Any translation of the said report shall be prepared by or under the responsibility of the International Bureau, whereas any translation of the said annexes shall be prepared by the applicant.

(3)(a) The international preliminary examination report, together with its translation (as prescribed) and its annexes (in the original language), shall be

communicated by the International Bureau to each elected Office.

(b) The prescribed translation of the annexes shall be transmitted within the prescribed time limit by the applicant to the elected Offices.

(4) The provisions of Article 20(3) shall apply, *mutatis mutandis*, to copies of any document which is cited in the international preliminary examination report and which was not cited in the international search report.

ARTICLE 37

Withdrawal of Demand or Election

(1) The applicant may withdraw any or all elections.

(2) If the election of all elected States is withdrawn, the demand shall be considered withdrawn.

(3)(a) Any withdrawal shall be notified to the International Bureau.

(b) The elected Offices concerned and the International Preliminary Examining Authority concerned shall be notified accordingly by the International Bureau.

(4)(a) Subject to the provisions of subparagraph (b), withdrawal of the demand or of the election of a Contracting State shall, unless the national law of that State provides otherwise, be considered to be withdrawal of the international application as far as that State is concerned.

(b) Withdrawal of the demand or of the election shall not be considered to be withdrawal of the international application if such withdrawal is effected prior to the expiration of the applicable time limit under Article 22; however, any Contracting State may provide in its national law that the aforesaid shall apply only if its national Office has received, within the said time limit, a copy of the international application, together with a translation (as prescribed), and the national fee.

ARTICLE 38

Confidential Nature of the International Preliminary Examination

(1) Neither the International Bureau nor the International Preliminary Examining Authority shall, unless requested or authorized by the applicant, allow access within the meaning, and with the proviso, of Article 30(4) to the file of the international preliminary examination by any person or authority at any time, except by the elected Offices once the international preliminary examination report has been established.

(2) Subject to the provisions of paragraph (1) and Articles 36(1) and (3) and 37(3)(b), neither the International Bureau nor the International Preliminary Examining Authority shall, unless requested or authorized by the applicant, give information on the issuance or nonissuance of an international preliminary examination report and on the withdrawal or non-withdrawal of the demand or of any election.

ARTICLE 39

Copy, Translation, and Fee, to Elected Offices

(1)(a) "If the election of any Contracting State has been effected prior to the expiration of the 19th month from the priority date, the provisions of Article 22 shall not apply to such State and the applicant shall furnish a copy of the international application (unless the communication under Article 20 has already been taken place) and a translation thereof (as prescribed), and pay the national fee (if any), to the elected Office not later than at the expiration of 30 months from the priority date.

(b) Any national law may, for performing the acts referred to in subparagraph (a), fix a time limit which expires later than the time limit provided for in that subparagraph.

(2) The effect provided for in Article 11(3) shall cease in the elected State with the same consequences as the withdrawal of any national application in that State if the applicant fails to perform the acts referred to in paragraph (1)(a) within the time limit applicable under paragraph (1)(a) or (b).

(3) Any elected Office may maintain the effect provided for in Article 11(3) even where the applicant does not comply with the requirement provided for in paragraph (1)(a) or (b).

ARTICLE 40

Delaying of National Examination and Other Proceedings

(1) If the election of any Contracting State has been effected prior to the expiration of the 19th month from the priority date, the provisions of Article 22 shall not apply to such State and the national Office of or acting for that State shall not proceed, subject to the provisions of paragraph (2), to the examination and other processing of the international application prior to the expiration of the applicable time limit under Article 39.

(2) Notwithstanding the provisions of paragraph (1), any elected Office may, on the express request of the applicant, proceed to the examination and other processing of the international application at any time.

*The text of Article 39(1)(a) ("If the election of any Contracting State has been effected prior to the expiration of the 19th month from the priority date, the provisions of Article 22 shall not apply to such State and the applicant shall furnish a copy of the international application (unless the communication under Article 20 has already been taken place) and a translation thereof (as prescribed), and pay the national fee (if any), to each elected Office not later than at the expiration of 30 months from the priority date.") was modified by decision taken by the Assembly of the PCT Union on February 3, 1984. In such decision, the document of the Assembly contains the following provisions:

"(2) The modification enters into force on January 1, 1985. However, as long as the time limit of 30 months is incompatible in all cases with the national law of the elected Office, a time limit of 23 months from the priority date shall, during a temporary period, apply with respect to that elected Office, provided that such Office made a notification to that effect to the International Bureau.

"(3) The notification referred to in paragraph (2) shall be addressed to the International Bureau before October 1, 1984. It shall be promptly published by the International Bureau in the Gazette, and it shall become effective on January 1, 1985.

"(4) Any notification effected under paragraph (3) may be withdrawn at any time. Such withdrawal shall be promptly published by the International Bureau in the Gazette and it shall be effective two months after its publication in the Gazette or at any time as indicated in the notice of withdrawal."

ARTICLE 41

Amendment of the Claims, the Description, and the Drawings, before Elected Offices

(1) The applicant shall be given the opportunity to amend the claims, the description, and the drawings, before each elected Office within the prescribed time limit. No elected Office shall grant a patent, or refuse the grant of a patent, before such time limit has expired, except with the express consent of the applicant.

(2) The amendments shall not go beyond the disclosure in the international application as filed, unless the national law of the elected State permits them to go beyond the said disclosure.

(3) The amendments shall be in accordance with the national law of the elected State in all respects not provided for in this Treaty and the Regulations.

(4) Where an elected Office requires a translation of the international application, the amendments shall be in the language of the translation.

ARTICLE 42

Results of National Examination in Elected Offices

No elected Office receiving the international preliminary examination report may require that the applicant furnish copies, or information on the contents, of any papers connected with the examination relating to the same international application in any other elected Office.

Chapter III Common Provisions

ARTICLE 43

Seeking Certain Kinds of Protection

In respect of any designated or elected State whose law provides for the grant of inventors' certificates, utility certificates, utility models, patents or certificates of addition, inventors' certificates of addition, or utility certificates of addition, the applicant may indicate, as prescribed in the Regulations, that his international application is for the grant, as far as that State is concerned, of an inventor's certificate, a utility certificate, or a utility model, rather than a patent, or that it is for the grant of a patent or certificate of addition, an inventor's certificate of addition, or a utility certificate of addition, and the ensuing effect shall be governed by the applicant's choice. For the purposes of this Article and any Rule thereunder, Article 2(ii) shall not apply.

(2) The national law of the said designated or elected State may provide that any designation or election of such State in the international application shall have the effect of an indication of the wish to obtain a regional patent under the regional patent treaty.

ARTICLE 46

Incorrect Translation of the International Application

If, because of an incorrect translation of the international application, the scope of any patent granted on that application exceeds the scope of the international application in its original language, the competent authorities of the Contracting State concerned may accordingly and retroactively limit the scope of the patent, and declare it null and void to the extent that its scope has exceeded the scope of the international application in its original language.

ARTICLE 44

Seeking Two Kinds of Protection

In respect of any designated or elected State whose law permits an application, while being for the grant of a patent or one of the other kinds of protection referred to in Article 43, to be also for the grant of another of the said kinds of protection, the applicant may indicate, as prescribed in the Regulations, the two kinds of protection he is seeking, and the ensuing effect shall be governed by the applicant's indications. For the purposes of this Article, Article 2(ii) shall not apply.

ARTICLE 47

Time Limits

(1) The details for computing time limits referred to in this Treaty are governed by the Regulations.

(2)(a) All time limits fixed in Chapters I and II of this Treaty may, outside any revision under Article 60, be modified by a decision of the Contracting States.

(b) Such decisions shall be made in the Assembly or through voting by correspondence and must be unanimous.

(c) The details of the procedure are governed by the Regulations.

ARTICLE 45

Regional Patent Treaties

(1) Any treaty providing for the grant of regional patents ("regional patent treaty"), and giving to all persons who, according to Article 9, are entitled to file international applications the right to file applications for such patents, may provide that international applications designating or electing a State party to both the regional patent treaty and the present Treaty may be filed as applications for such patents.

ARTICLE 48

Delay in Meeting Certain Time Limits

(1) Where any time limit fixed in this Treaty or the Regulations is not met because of interruption in the mail service or unavoidable loss or delay in the mail.

the time limit shall be deemed to be met in the cases and subject to the proof and other conditions prescribed in the Regulations.

(a) Any Contracting State shall, as far as that State is concerned, excuse, for reasons admitted under its national law, any delay in meeting any time limit.

(b) Any Contracting State may, as far as that State is concerned, excuse, for reasons other than those referred to in subparagraph (a), any delay in meeting any time limit.

ARTICLE 49

Right to Practice before International Authority

Any attorney, patent agent, or other person, the right to practice before the national Office which the international application was filed, is entitled to practice before the International and the competent International Searching Authority and competent International Preliminary Examination Authority in respect of that application.

Chapter IV Technical Services

ARTICLE 50

Patent Information Services

(1) The International Bureau may furnish services by providing technical and any other pertinent information available to it on the basis of published documents, primarily patents and published applications (referred to in this Article as "the information services").

(2) The International Bureau may provide these information services either directly or through one or more International Searching Authorities or other national or international specialized institutions, with which the International Bureau may reach agreement.

(3) The information services shall be operated in a way particularly facilitating the acquisition by Contracting States which are developing countries of technical knowledge and technology, including available published know-how.

(4) The information services shall be available to Governments of Contracting States and their nationals and residents. The Assembly may decide to make these services available also to others.

(5)(1) Any service to Governments of Contracting States shall be furnished at cost, provided that, when the Government is that of a Contracting State which is a developing country, the service shall be furnished below cost if the difference can be covered from profit made on services furnished to others than Governments of Contracting States or from the sources referred to in Article 51(4).

(b) The cost referred to in subparagraph (a) is to be understood as cost over and above costs normally incident to the performance of the services of a national Office or the obligations of an International Searching Authority.

(6) The details concerning the implementation of the provisions of this Article shall be governed by decisions of the Assembly and, within the limits to be fixed by the Assembly, such working groups as the Assembly may set up for that purpose.

(7) The Assembly shall, when it considers it necessary, recommend methods of providing financing supplementary to those referred to in paragraph (5).

ARTICLE 51

Technical Assistance

(1) The Assembly shall establish a Committee for Technical Assistance (referred to in this Article as "the Committee").

(2)(a) The members of the Committee shall be elected among the Contracting States, with regard to the representation of developing countries.

(b) The Director General shall, on his own initiative or at the request of the Committee, invite representatives of intergovernmental organizations concerned with technical assistance to developing countries to participate in the work of the Committee.

(3)(a) The task of the Committee shall be to organize and supervise technical assistance for Contracting States which are developing countries in developing their patent systems individually or on a regional basis.

(b) The technical assistance shall cover, among other things, the training of specialists, loaning of experts, and the supply of equipment for demonstration and for operational purposes.

(4) The International Bureau shall seek to enter into agreements, on the one hand, with international financing organizations and intergovernmental organizations, particularly the United Nations, the Agency for International Development, the World Bank, the International Labour Office, the International Atomic Energy Agency, the International Centre for Technical Cooperation, the United Nations Educational, Scientific and Cultural Organization, and the Specialized Agencies connected with the United Nations concerned with technical assistance, and, on the other hand, with Governments of the States receiving the technical assistance, for the financing of projects pursuant to this Article.

(5) The details concerning the implementation of the provisions of this Article shall be governed by decisions of the Assembly and, within the limits fixed by the Assembly, such working groups as the Assembly may set up for that purpose.

ARTICLE 52

Relations with Other Provisions of the Treaty

Nothing in this Chapter shall affect the force of the provisions contained in any other Chapter of the Treaty. Such provisions are not applicable to the present Chapter or to its implementation.

Chapter V Administrative Provisions

ARTICLE 53

Assembly

(1)(a) The Assembly shall, subject to Article 57(8), consist of the Contracting States.

(b) The Government of each Contracting State shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(2)(a) The Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Union and the implementation of this Treaty;

(ii) perform such tasks as are specifically assigned to it under other provisions of this Treaty;

(iii) give directions to the International Bureau concerning the preparation for revision conferences;

(iv) review and approve the reports and activities of the Director General concerning the Union, and give him all necessary instructions concerning matters within the competence of the Union;

(v) review and approve the reports and activities of the Executive Committee established under paragraph (9), and give instructions to such Committee;

(vi) determine the program and adopt the triennial* budget of the Union, and approve its final accounts;

(vii) adopt the financial regulations of the Union;

(viii) establish such committees and working groups as it deems appropriate to achieve the objectives of the Union;

(ix) determine which States other than Contracting States and, subject to the provisions of paragraph (8), which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

(x) take any other appropriate action designed to further the objectives of the Union and perform such other functions as are appropriate under this Treaty.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3) A delegate may represent, and vote in the name of, one State only.

(4) Each Contracting State shall have one vote.

(5)(a) One-half of the Contracting States shall constitute a quorum.

(b) In the absence of the quorum, the Assembly may make decisions but, with the exception of decisions, concerning its own procedure, all such decisions shall take effect only if the quorum and the required majority are attained through voting by correspondence as provided in the Regulations.

(6)(a) Subject to the provisions of Articles 47(2)(58(2)(b), 58(3) and 61(2)(b), the decisions of the Assembly shall require two-thirds of the votes cast.

(b) Abstentions shall not be considered as votes.

(7) In connection with matters of exclusive interest to States bound by Chapter II, any reference to Contracting States in paragraphs (4), (5), and (6), shall be considered as applying only to States bound by Chapter II.

(8) Any intergovernmental organization appointed as International Searching or Preliminary Examining Authority shall be admitted as observer to the Assembly.

(9) When the number of Contracting States exceeds forty, the Assembly shall establish an Executive Committee. Any reference to the Executive Committee in this Treaty and the Regulations shall be construed as references to such Committee once it has been established.

(10) Until the Executive Committee has been established, the Assembly shall approve, within the limits of the program and triennial budget, the annual programs and budgets prepared by the Director General.*

(11)(a) The Assembly shall meet in every second calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, at the request of the Executive Committee, or at the request of one-fourth of the Contracting States.

(12) The Assembly shall adopt its own rules of procedure.

ARTICLE 54

Executive Committee

(1) When the Assembly has established an Executive Committee, that Committee shall be subject to the provisions set forth hereinafter.

(2)(a) The Executive Committee shall, subject to Article 57(8), consist of States elected by the Assembly from among States members of the Assembly.

(b) The Government of each State member of the Executive Committee shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(3) The numbers of States members of the Executive Committee shall correspond to one-fourth of the number of States members of the Assembly. In establishing the number of seats to be filled, remainders after division by four shall be disregarded.

*Editor's Note: Since 1960, the program and budget of the Union are biennial.

PATENT COOPERATION TREATY

(4) In electing the members of the Executive Committee, the Assembly shall have due regard to an equitable geographical distribution.

(5)(a) Each member of the Executive Committee shall serve from the close of the session of the Assembly which elected it to the close of the next ordinary session of the Assembly.

(b) Members of the Executive Committee may be re-elected but only up to a maximum of two-thirds of such members.

(c) The Assembly shall establish the details of the rules governing the election and possible re-election of the members of the Executive Committee.

(6)(a) The Executive Committee shall:

(i) prepare the draft agenda of the Assembly;

(ii) submit proposals to the Assembly in respect of the draft program and biennial budget of the Union prepared by the Director General;

(iii) *[deleted]*

(iv) submit, with appropriate comments, to the Assembly the periodical reports of the Director General and the yearly audit reports on the accounts;

(v) take all necessary measures to ensure the execution of the program of the Union by the Director General, in accordance with the decisions of the Assembly and having regard to circumstances arising between two ordinary sessions of the Assembly;

(vi) perform such other functions as are allocated to it under this Treaty.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Executive Committee shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(7)(a) The Executive Committee shall meet once a year in ordinary session upon convocation by the Director General, preferably during the same period and at the same place as the Coordination Committee of the Organization.

(b) The Executive Committee shall meet in extraordinary session upon convocation by the Director General, either on his own initiative or at the request of its Chairman or one-fourth of its members.

(8)(a) Each State member of the Executive Committee shall have one vote.

(b) One-half of the members of the Executive Committee shall constitute a quorum.

(c) Decisions shall be made by a simple majority of the votes cast.

(d) Abstentions shall not be considered as votes.

(e) A delegate may represent, and vote in the name of, one State only.

(9) Contracting States not members of the Executive Committee shall be admitted to its meetings as observers, as well as any intergovernmental organization appointed as International Searching or Preliminary Examining Authority.

(10) The Executive Committee shall adopt its own rules of procedure.

ARTICLE 55

International Bureau

(1) Administrative tasks concerning the Union be performed by the International Bureau.

(2) The International Bureau shall provide the retariat of the various organs of the Union.

(3) The Director General shall be the chief executive of the Union and shall represent the Union.

(4) The International Bureau shall publish a Gazette and other publications provided for by the Regulations or required by the Assembly.

(5) The Regulations shall specify the services national Offices shall perform in order to assist the International Bureau and the International Searching and Preliminary Examining Authorities in carrying out their tasks under this Treaty.

(6) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the Executive Committee and any other committee or working group established under this Treaty or the Regulations. The Director General, or a staff member designated by him, shall be *ex officio* secretary of the bodies.

(7)(a) The International Bureau shall, in accordance with the directions of the Assembly and in cooperation with the Executive Committee, make the preparations for the revision conferences.

(b) The International Bureau may consult intergovernmental and international non-government organizations concerning preparations for revision conferences.

(c) The Director General and persons designated by him shall take part, without the right to vote in the discussions at revision conferences.

(8) The International Bureau shall carry out other tasks assigned to it.

ARTICLE 56

Committee for Technical Cooperation

(1) The Assembly shall establish a Committee for Technical Cooperation (referred to in this Article "the Committee").

(2)(a) The Assembly shall determine the composition of the Committee and appoint its members, due regard to an equitable representation of developing countries.

(b) The International Searching and Preliminary Examining Authorities shall be *ex officio* members of the Committee. In the case where such an Authority is the national Office of a Contracting State, that State shall not be additionally represented on the Committee.

(c) If the number of Contracting States so all the total number of members of the Committee be more than double the number of *ex officio* members.

(d) The Director General shall, on his own initiative or at the request of the Committee, invite r

MANUAL OF PATENT EXAMINING PROCEDURE

representatives of interested organizations to participate in discussions of interest to them.

(3) The aim of the Committee shall be to contribute, by advice and recommendations:

(i) to the constant improvement of the services provided for under this Treaty,

(ii) to the securing, so long as there are several International Searching Authorities and several International Preliminary Examining Authorities, of the maximum degree of uniformity in their documentation and working methods and the maximum degree of uniformly high quality in their reports, and

(iii) on the initiative of the Assembly or the Executive Committee, to the solution of the technical problems specifically involved in the establishment of a single International Searching Authority.

(4) Any Contracting State and any interested international organization may approach the Committee in writing on questions which fall within the competence of the Committee.

(5) The Committee may address its advice and recommendations to the Director General or, through him, to the Assembly, the Executive Committee, all or some of the International Searching and Preliminary Examining Authorities, and all or some of the receiving Offices.

(6)(a) In any case, the Director General shall transmit to the Executive Committee the texts of all the advice and recommendations of the Committee. He may comment on such texts.

(b) The Executive Committee may express its views on any advice, recommendation, or other activity of the Committee, and may invite the Committee to study and report on questions falling within its competence. The Executive Committee may submit to the Assembly, with appropriate comments, the advice, recommendations and report of the Committee.

(7) Until the Executive Committee has been established, references in paragraph (6) to the Executive Committee shall be construed as references to the Assembly.

(8) The details of the procedure of the Committee shall be governed by decisions of the Assembly.

ARTICLE 57

Finances

(1)(a) The Union shall have a budget.

(b) The budget of the Union shall include the income and expenses proper to the Union and its contribution to the budget of expenses common to the Unions administered by the Organization.

(c) Expenses not attributable exclusively to the Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Union in such common expenses shall be in proportion to the interest the Union has in them.

(2) The budget of the Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.

(3) Subject to the provisions of paragraph (5), the budget of the Union shall be financed from the following sources:

(i) fees and charges due for services rendered by the International Bureau in relation to the Union;

(ii) sale of, or royalties on, the publications of the International Bureau concerning the Union;

(iii) gifts, bequests, and subventions;

(iv) rents, interests, and other miscellaneous income.

(4) The amounts of fees and charges due to the International Bureau and the prices of its publications shall be so fixed that they should, under normal circumstances, be sufficient to cover all the expenses of the International Bureau connected with the administration of this Treaty.

(5)(a) Should any financial year close with a deficit of the Contracting States shall, subject to the provisions of subparagraphs (b) and (c), pay contributions to cover such deficit.

(b) The amount of the contribution of each Contracting State shall be decided by the Assembly with due regard to the number of international applications which has emanated from each of them in the relevant year.

(c) If other means of provisionally covering a deficit or any part thereof are secured, the Assembly may decide that such deficit be carried forward and that the Contracting States should not be asked to pay contributions.

(d) If the financial situation of the Union so permits, the Assembly may decide that any contributions paid under subparagraph (a) be reimbursed to the Contracting States which have paid them.

(e) A Contracting State which has not paid its contribution within two years of the due date as established by the Assembly, its contribution under subparagraph (a) may not exercise its right to vote in any of the organs of the Union. However, any organ of the Union shall allow such a State to continue to exercise its right to vote in the organ so long as it is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.

(6) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, as provided in the financial regulations.

(7)(a) The Union shall have a working capital fund which shall be constituted by a single payment made by each Contracting State. If the fund becomes insufficient, the Assembly shall arrange to increase it. If part of the fund is no longer needed, it shall be reimbursed.

(b) The amount of the initial payment of each Contracting State to the said fund or of its participation in the increase thereof shall be decided by the Assembly on the basis of principles similar to those provided for under paragraph (3)(b).

(c) The terms of payment shall be fixed by the Assembly on the proposal of the Director General.

PATENT COOPERATION TREATY

and after it has heard the advice of the Coordination Committee of the Organization.

(d) Any reimbursement shall be proportionate to the amounts paid by each Contracting State, taking into account the dates at which they were paid.

(8)(a) In the headquarters agreement concluded with the State on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such State shall grant advances. The amount of these advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such State and the Organization. As long as it remains under the obligation to grant advances, such State shall have *ex officio* seat in the Assembly and on the Executive Committee.

(b) The State referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(9) The auditing of the accounts shall be effected by one or more of the Contracting States or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

ARTICLE 58

Regulations

(1) The Regulations annexed to this Treaty provide Rules:

(i) concerning matters in respect of which this Treaty expressly refers to the Regulations or expressly provides that they are or shall be prescribed.

(ii) concerning any administrative requirements, matters, or procedures.

(iii) concerning any details useful in the implementation of the provisions of this Treaty.

(2)(a) The Assembly may amend the Regulations.

(b) Subject to the provisions of paragraph (a), amendments shall require three-fourths of votes cast.

(3)(a) The Regulations specify the Rules which may be amended

(i) only by unanimous consent, or

(ii) only if none of the Contracting States whose national Office acts as an International Searching or Preliminary Examining Authority dissents, a where such Authority is an intergovernmental organization, if the Contracting State member of that organization authorized for that purpose by the other member States within the competent body of such organization does not dissent.

(b) Exclusions, for the future, of any such Rule from the applicable requirement shall require the fulfillment of the conditions referred to in subparagraph (a)(i) or (a)(ii), respectively.

(c) Inclusion, for the future, of any Rule in or the other of the requirements referred to in paragraph (a) shall require unanimous consent.

(4) The Regulations provide for the establishment under the control of the Assembly, of Administrative Instructions by the Director General.

(5) In the case of conflict between the provisions of the Treaty and those of the Regulations, the provisions of the Treaty shall prevail.

Chapter VI

Disputes

ARTICLE 59

Disputes

Subject to Article 64(5), any dispute between two or more Contracting States concerning the interpretation or application of this Treaty or the Regulations, not settled by negotiation, may, by any one of the States concerned, be brought before the International

Court of Justice by application in conformity with Statute of the Court, unless the States concerned agree on some other method of settlement. The Contracting State bringing the dispute before the Court shall inform the International Bureau; the International Bureau shall bring the matter to the attention of other Contracting States.

Chapter VII

Revision and Amendment

ARTICLE 60

Revisions of the Treaty

(1) This Treaty may be revised from time to time by a special conference of the Contracting States.

(2) The convocation of any revision conference shall be decided by the Assembly.

(3) Any intergovernmental organization appointed as International Searching or Preliminary Examining

Authority shall be admitted as observer to any revision conference.

(4) Articles 53(5), (9) and (11), 54, 55(4) to (8), and 57, may be amended either by a revision conference or according to the provisions of Article 61.

ARTICLE 61

Amendment of Certain Provisions of the Treaty

(1)(a) Proposals for the amendment of Article (5), (9) and (11), 54, 55(4) to (8), 56, and 57, may

initiated by any State member of the Assembly, by the Executive Committee, or by the Director General.

(b) Such proposals shall be communicated by the Director General to the Contracting States at least six months in advance of their consideration by the Assembly.

(2)(a) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly.

(b) Adoption shall require three-fourths of the votes cast.

(3)(a) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes,

have been received by the Director General from three-fourths of the States members of the Assembly at the time it adopted the amendment.

(b) Any amendment to the said Articles thus accepted shall bind all the States which are members of the Assembly at the time the amendment enters into force, provided that any amendment increasing the financial obligations of the Contracting States shall bind only those States which have notified their acceptance of such amendment.

(c) Any amendment accepted in accordance with the provisions of subparagraph (a) shall bind all States which become members of the Assembly after the date on which the amendment entered into force in accordance with the provisions of subparagraph (a).

Chapter VIII

Final Provisions

ARTICLE 62

Becoming Party to the Treaty

(1) Any State member of the International Union for the Protection of Industrial Property may become party to this Treaty by:

(i) signature followed by the deposit of an instrument of ratification, or

(ii) deposit of an instrument of accession.

(2) Instruments of ratification or accession shall be deposited with the Director General.

(3) The provisions of Article 24 of the Stockholm Act of the Paris Convention for the Protection of Industrial Property shall apply to this Treaty.

(4) Paragraph (3) shall in no way be understood as implying the recognition of tacit acceptance by a Contracting State of the factual situation concerning a territory to which this Treaty is made applicable by another Contracting State by virtue of the said paragraph.

ARTICLE 63

Entry into Force of the Treaty

(1)(a) Subject to the provisions of paragraph (3), this Treaty shall enter into force three months after eight States have deposited their instruments of ratification or accession, provided that at least four of those States each fulfill any of the following conditions:

(i) the number of applications filed in the State has exceeded 40,000 according to the most recent annual statistics published by the International Bureau,

(ii) the nationals or residents of the State have filed at least 1,000 applications in one foreign country according to the most recent annual statistics published by the International Bureau,

(iii) the national Office of the State has received at least 10,000 applications from nationals or residents of foreign countries according to the most recent annual statistics published by the International Bureau.

(b) For the purposes of this paragraph, the term "applications" does not include applications for utility models.

(2) Subject to the provisions of paragraph (3), any State which does not become party to this Treaty upon entry into force under paragraph (1) shall become bound by this Treaty three months after the date of which such State has deposited its instrument of ratification or accession.

(3) The provisions of Chapter II and the corresponding provisions of the Regulations annexed to this Treaty shall become applicable, however, only on the date on which three States each of which fulfill at least one of the three requirements specified in paragraph (1) have become party to this Treaty without declaring, as provided in Article 64(1), that they do not intend to be bound by the provisions of Chapter II. That date shall not, however, be prior to that of the initial entry into force under paragraph (1).

ARTICLE 64

Reservations

(1)(a) Any State may declare that it shall not be bound by the provisions of Chapter II.

(b) States making a declaration under subparagraph (a) shall not be bound by the provisions of Chapter II and the corresponding provisions of the Regulations.

(2)(a) Any State not having made a declaration under paragraph (1)(a) may declare that:

(i) it shall not be bound by the provisions of Article 39(1) with respect to the furnishing of a copy of the international application and a translation thereof (as prescribed),

(ii) the obligation to delay national processing, as provided for under Article 40, shall not prevent publication, by or through its national Office, of the international application or a translation thereof, it being understood, however, that it is not exempted from the limitations provided for in Articles 30 and 38.

PATENT COOPERATION TREATY

Regulations Under the Patent Cooperation Treaty (as in force from January 1, 1994)

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, and September 29, 1993.

TABLE OF CONTENTS

Part A: Introductory Rules

- Rule 1 Abbreviated Expressions
 - 1.1 Meaning of Abbreviated Expressions

- Rule 2 Interpretation of Certain Words
 - 2.1 "Applicant"
 - 2.2 "Agent"
 - 2.2^{bis} "Common Representative"
 - 2.3 "Signature"

Part B: Rules Concerning Chapter I of the Treaty

- Rule 3 The Request (Form)
 - 3.1 Form of Request
 - 3.2 Availability of Forms
 - 3.3 Check List
 - 3.4 Particulars

- Rule 4 The Request (Contents)
 - 4.1 Mandatory and Optional Contents; Signature
 - 4.2 The Petition
 - 4.3 Title of the Invention
 - 4.4 Names and Addresses
 - 4.5 The Applicant
 - 4.6 The Inventor
 - 4.7 The Agent
 - 4.8 Common Representative
 - 4.9 Designation of States
 - 4.10 Priority Claim
 - 4.11 Reference to Earlier Search
 - 4.12 Choice of Certain Kinds of Protection
 - 4.13 Identification of Parent Application or Parent Grant
 - 4.14 Continuation or Continuation-in-Part
 - 4.14^{bis} Choice of International Searching Authority
 - 4.15 Signature
 - 4.16 Transliteration or Translation of Certain Words
 - 4.17 Additional Matter

- Rule 5 The Description
 - 5.1 Manner of the Description
 - 5.2 Nucleotide and/or Amino Acid Disclosure

- Rule 6 The Claims
 - 6.1 Number and Numbering of Claims
 - 6.2 References to Other Parts of the International Application
 - 6.3 Manner of Claiming
 - 6.4 Dependent Claims
 - 6.5 Utility Models

- Rule 7 The Drawings
 - 7.1 Flow Sheets and Diagrams
 - 7.2 Time Limit

- Rule 8 The Abstract
 - 8.1 Contents and Form of the Abstract
 - 8.2 Figure
 - 8.3 Guiding Principles in Drafting

- Rule 9 Expressions, Etc., Not to Be Used
 - 9.1 Definition
 - 9.2 Noting of Lack of Compliance
 - 9.3 Reference to Article 21(6)

- Rule 10 Terminology and Signs
 - 10.1 Terminology and Signs
 - 10.2 Consistency

- Rule 11 Physical Requirements of the International Application
 - 11.1 Number of Copies
 - 11.2 Fitness for Reproduction
 - 11.3 Material to Be Used
 - 11.4 Separate Sheets, Etc.
 - 11.5 Size of Sheets
 - 11.6 Margins
 - 11.7 Numbering of Sheets
 - 11.8 Numbering of Lines
 - 11.9 Writing of Text Matter
 - 11.10 Drawings, Formulae, and Tabular Matter
 - 11.11 Words in Drawings
 - 11.12 Alterations, Etc.
 - 11.13 Special Requirements for Drawings
 - 11.14 Later Documents

- Rule 12 Language of the International Application
 - 12.1 Admitted Language
 - 12.2 Language of Changes in the International Application

- Rule 13 Unity of Invention
 - 13.1 Requirement
 - 13.2 Circumstances in Which the Requirement of Unity of Invention Is to Be Fulfilled

MANUAL OF PATENT EXAMINING PROCEDURE

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|---|--|
| <p>Rule 13 Unity of Invention—Con.</p> <p>13.3 Determination of Unity of Invention Not Affected by Manner of Claiming</p> <p>13.4 Dependent Claims</p> <p>13.5 Utility Models</p> <p>Rule 13^{bis} Microbiological Inventions</p> <p>13^{bis}.1 Definition</p> <p>13^{bis}.2 References (General)</p> <p>13^{bis}.3 References: Contents; Failure to Include Reference or Indication</p> <p>13^{bis}.4 References: Time of Furnishing Indications</p> <p>13^{bis}.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</p> <p>13^{bis}.6 Furnishing of Samples</p> <p>13^{bis}.7 National Requirements: Notification and Publication</p> <p>Rule 13^{ter} Nucleotide and/or Amino Acid Sequence Listings</p> <p>13^{ter}.1 Sequence Listing for International Authorities</p> <p>13^{ter}.2 Sequence Listing for Designated Office</p> <p>Rule 14 The Transmittal Fee</p> <p>14.1 The Transmittal Fee</p> <p>Rule 15 The International Fee</p> <p>15.1 Basic Fee and Designation Fee</p> <p>15.2 Amounts</p> <p>15.3 Mode of Payment</p> <p>15.4 Time of Payment</p> <p>15.5 Fees Under Rule 4.9(c)</p> <p>15.6 Refund</p> <p>Rule 16 The Search Fee</p> <p>16.1 Right to Ask for a Fee</p> <p>16.2 Refund</p> <p>16.3 Partial Refund</p> <p>Rule 16^{bis} Extension of Time Limits for Payment of Fees</p> <p>16^{bis}.1 Invitation by the Receiving Office</p> <p>16^{bis}.2 Late Payment Fee</p> <p>Rule 17 The Priority Document</p> <p>17.1 Obligation to Submit Copy of Earlier National Application</p> <p>17.2 Availability of Copies</p> <p>Rule 18 The Applicant</p> <p>18.1 Residence and Nationality</p> <p>18.2 <i>[Deleted]</i></p> <p>18.3 Two or More Applicants</p> | <p>18.4 Information on Requirements Under National Law as to Applicants</p> <p>Rule 19 The Competent Receiving Office</p> <p>19.1 Where to File</p> <p>19.2 Two or More Applicants</p> <p>19.3 Publication of Fact of Delegation of Duties of Receiving Office</p> <p>19.4 Transmittal to the International Bureau as Receiving Office</p> <p>Rule 20 Receipt of the International Application</p> <p>20.1 Date and Number</p> <p>20.2 Receipt on Different Days</p> <p>20.3 Corrected International Application</p> <p>20.4 Determination under Article 11(1)</p> <p>20.5 Positive Determination</p> <p>20.6 Invitation to Correct</p> <p>20.7 Negative Determination</p> <p>20.8 Error by the Receiving Office</p> <p>20.9 Certified Copy for the Applicant</p> <p>Rule 21 Preparation of Copies</p> <p>21.1 Responsibility of the Receiving Office</p> <p>Rule 22 Transmittal of the Record Copy</p> <p>22.1 Procedure</p> <p>22.2 <i>[Deleted]</i></p> <p>22.3 Time Limit under Article 12(3)</p> <p>Rule 23 Transmittal of the Search Copy</p> <p>23.1 Procedure</p> <p>Rule 24 Receipt of the Record Copy by the International Bureau</p> <p>24.1 <i>[Deleted]</i></p> <p>24.2 Notification of Receipt of the Record Copy</p> <p>Rule 25 Receipt of the Search Copy by the International Searching Authority</p> <p>25.1 Notification of Receipt of the Search Copy</p> <p>Rule 26 Checking by, and Correcting before, the Receiving Office of Certain Elements of the International Application</p> <p>26.1 Time Limit for Check</p> <p>26.2 Time Limit for Correction</p> <p>26.3 Checking of Physical Requirements under Article 14(1)(a)(v)</p> <p>26.3^{bis} Invitation to Correct Defects under Article 14(1)(b)</p> <p>26.3^{ter} Invitation to Correct Defects under Article 3(4)(i)</p> <p>26.4 Procedure</p> <p>26.5 Decision of the Receiving Office</p> <p>26.6 Missing Drawings</p> |
|---|--|

PATENT COOPERATION TREATY

<p>Rule 27 Lack of Payment of Fees 27.1 Fees</p>	<p>Rule 39 Subject Matter under Article 17(2)(a)(i) 39.1 Definition</p>
<p>Rule 28 Defects Noted by the International Bureau 28.1 Note on Certain Defects</p>	<p>Rule 40 Lack of Unity of Invention (International) 40.1 Invitation to Pay 40.2 Additional Fees 40.3 Time Limit</p>
<p>Rule 29 International Applications or Designations Considered Withdrawn under Article 14(1), (3) or (4) 29.1 Finding by Receiving Office 29.2 <i>[Deleted]</i> 29.3 Calling Certain Facts to the Attention of the Receiving Office 29.4 Notification of Intent to Make Declaration under Article 14(4)</p>	<p>Rule 41 Earlier Search Other Than International S 41.1 Obligation to Use Results: Refun</p>
<p>Rule 30 Time Limit under Article 14(4) 30.1 Time Limit</p>	<p>Rule 42 Time Limit for International Search 42.1 Time Limit for International Sea</p>
<p>Rule 31 Copies Required under Article 13 31.1 Request for Copies 31.2 Preparation of Copies</p>	<p>Rule 43 The International Search Report 43.1 Identifications 43.2 Dates 43.3 Classification 43.4 Language 43.5 Citations 43.6 Fields Searched 43.7 Remarks Concerning Unity of In 43.8 Authorized Officer 43.9 Additional Matter 43.10 Form</p>
<p>Rule 32 <i>[Deleted]</i></p>	<p>Rule 44 Transmittal of the International Search Re 44.1 Copies of Report or Declaration 44.2 Title or Abstract 44.3 Copies of Cited Documents</p>
<p>Rule 32^{bis} <i>[Deleted]</i></p>	<p>Rule 45 Translation of the International Search Re 45.1 Languages</p>
<p>Rule 33 Relevant Prior Art for the International Search 33.1 Relevant Prior Art for the International Search 33.2 Fields to Be Covered by the International Search 33.3 Orientation of the International Search</p>	<p>Rule 46 Amendment of Claims before the Internal Bureau 46.1 Time Limit 46.2 Where to File 46.3 Language of Amendments 46.4 Statement 46.5 Form of Amendments</p>
<p>Rule 34 Minimum Documentation 34.1 Definition</p>	<p>Rule 47 Communication to Designated Offices 47.1 Procedure 47.2 Copies 47.3 Languages 47.4 Express Request under Article 2</p>
<p>Rule 35 The Competent International Searching Authority 35.1 When Only One International Searching Authority Is Competent 35.2 When Several International Searching Authorities Are Competent 35.3 When the International Bureau Is Receiving Office Under Rule 19.1(a)(iii)</p>	<p>Rule 48 International Publication 48.1 Form 48.2 Contents 48.3 Languages 48.4 Earlier Publication on the Appli 48.5 Notification of National Publicat 48.6 Announcing of Certain Facts</p>
<p>Rule 36 Minimum Requirements for International Searching Authorities 36.1 Definition of Minimum Requirements</p>	
<p>Rule 37 Missing or Defective Title 37.1 Lack of Title 37.2 Establishment of Title</p>	
<p>Rule 38 Missing or Defective Abstract 38.1 Lack of Abstract 38.2 Establishment of Abstract</p>	

MANUAL OF PATENT EXAMINING PROCEDURE

- | | |
|---|--|
| <p>Rule 49 Copy, Translation and Fee under Article 22</p> <p>49.1 Notification</p> <p>49.2 Languages</p> <p>49.3 Statements under Article 19; Indications under Rule 13^{bis}.4</p> <p>49.4 Use of National Form</p> <p>49.5 Contents of and Physical Requirements for the Translation</p> | <p>Rule 56 Later Elections</p> <p>56.1 Elections Submitted Later Than the Demand</p> <p>56.2 Identification of the International Application</p> <p>56.3 Identification of the Demand</p> <p>56.4 Form of Later Elections</p> <p>56.5 Language of Later Elections</p> |
| <p>Rule 50 Faculty under Article 22(3)</p> <p>50.1 Exercise of Faculty</p> | <p>Rule 57 The Handling Fee</p> <p>57.1 Requirement to Pay</p> <p>57.2 Amount</p> <p>57.3 Time and Mode of Payment</p> <p>57.4 Failure to Pay</p> <p>57.5 <i>[Deleted]</i></p> <p>57.6 Refund</p> |
| <p>Rule 51 Review by Designated Offices</p> <p>51.1 Time Limit for Presenting the Request to Send Copies</p> <p>51.2 Copy of the Notice</p> <p>51.3 Time Limit for Paying National Fee and Furnishing Translation</p> | <p>Rule 58 The Preliminary Examination Fee</p> <p>58.1 Right to Ask for a Fee</p> <p>58.2 Failure to Pay</p> <p>58.3 Refund</p> |
| <p>Rule 51^{bis} Certain National Requirements Allowed Under Article 27(1), (2), (6) and (7)</p> <p>51^{bis}.1 Certain National Requirements Allowed</p> <p>51^{bis}.2 Opportunity to Comply with National Requirements</p> | <p>Rule 59 The Competent International Preliminary Examining Authority</p> <p>59.1 Demands under Article 31(2)(a)</p> <p>59.2 Demands under Article 31(2)(b)</p> |
| <p>Rule 52 Amendment of the Claims, the Description, and the Drawings, before Designated Offices</p> <p>52.1 Time Limit</p> | <p>Rule 60 Certain Defects in the Demand or Elections</p> <p>60.1 Defects in the Demand</p> <p>60.2 Defects in Later Elections</p> |
| Part C: Rules Concerning Chapter II of the Treaty | |
| <p>Rule 53 The Demand</p> <p>53.1 Form</p> <p>53.2 Contents</p> <p>53.3 The Petition</p> <p>53.4 The Applicant</p> <p>53.5 Agent or Common Representative</p> <p>53.6 Identification of the International Application</p> <p>53.7 Election of States</p> <p>53.8 Signature</p> <p>53.9 Statement Concerning Amendments</p> | <p>Rule 61 Notification of the Demand and Elections</p> <p>61.1 Notification to the International Bureau and the Applicant</p> <p>61.2 Notification to the Elected Offices</p> <p>61.3 Information for the Applicant</p> <p>61.4 Publication in the Gazette</p> |
| <p>Rule 54 The Applicant Entitled to Make a Demand</p> <p>54.1 Residence and Nationality</p> <p>54.2 Two or More Applicants</p> <p>54.3 International Applications Filed with the International Bureau as Receiving Office</p> <p>54.4 Applicant Not Entitled to Make a Demand</p> | <p>Rule 62 Copy of Amendments Under Article 19 for the International Preliminary Examining Authority</p> <p>62.1 Amendments Made before the Demand is Filed</p> <p>62.2 Amendments Made after the Demand is Filed</p> |
| <p>Rule 55 Languages (International Preliminary Examination)</p> <p>55.1 Language of Demand</p> <p>55.2 Translation of International Application</p> <p>55.3 Translation of Amendments</p> | <p>Rule 63 Minimum Requirements for International Preliminary Examining Authorities</p> <p>63.1 Definition of Minimum Requirements</p> |
| | <p>Rule 64 Prior Art for International Preliminary Examination</p> <p>64.1 Prior Art</p> <p>64.2 Non-Written Disclosures</p> <p>64.3 Certain Published Documents</p> |
| | <p>Rule 65 Inventive Step or Non-Obviousness</p> <p>65.1 Approach to Prior Art</p> <p>65.2 Relevant Date</p> |

PATENT COOPERATION TREATY

<p>Rule 66 Procedure before the International Preliminary Examining Authority</p> <p>66.1 Basis of the International Preliminary Examination</p> <p>66.2 First Written Opinion of the International Preliminary Examining Authority</p> <p>66.3 Formal Response to the International Preliminary Examining Authority</p> <p>66.4 Additional Opportunity for Submitting Amendments or Arguments</p> <p>66.4^{bis} Consideration of Amendments and Arguments</p> <p>66.5 Amendment</p> <p>66.6 Informal Communications with the Applicant</p> <p>66.7 Priority Document</p> <p>66.8 Form of Amendments</p> <p>66.9 Language of Amendments</p> <p>Rule 67 Subject Matter under Article 34(4)(a)(i)</p> <p>67.1 Definition</p> <p>Rule 68 Lack of Unity of Invention (International Preliminary Examination)</p> <p>68.1 No Invitation to Restrict or Pay</p> <p>68.2 Invitation to Restrict or Pay</p> <p>68.3 Additional Fees</p> <p>68.4 Procedure in the Case of Insufficient Restriction of the Claims</p> <p>68.5 Main Invention</p> <p>Rule 69 Start of and Time Limit for International Preliminary Examination</p> <p>69.1 Start of International Preliminary Examination</p> <p>69.2 Time Limit for International Preliminary Examination</p> <p>Rule 70 The International Preliminary Examination Report</p> <p>70.1 Definition</p> <p>70.2 Basis of the Report</p> <p>70.3 Identifications</p> <p>70.4 Dates</p> <p>70.5 Classification</p> <p>70.6 Statement under Article 35(2)</p> <p>70.7 Citations under Article 35(2)</p> <p>70.8 Explanations under Article 35(2)</p> <p>70.9 Non-Written Disclosures</p> <p>70.10 Certain Published Documents</p> <p>70.11 Mention of Amendments</p> <p>70.12 Mention of Certain Defects and Other Matters</p> <p>70.13 Remarks Concerning Unity of Invention</p> <p>70.14 Authorized Officer</p> <p>70.15 Form</p> <p>70.16 Annexes of the Report</p>	<p>70.17 Languages of the Report and the</p> <p>Rule 71 Transmittal of the International Preliminary Examination Report</p> <p>71.1 Recipients</p> <p>71.2 Copies of Cited Documents</p> <p>Rule 72 Translation of the International Preliminary Examination Report</p> <p>72.1 Languages</p> <p>72.2 Copy of Translation for the Applicant</p> <p>72.3 Observations on the Translation</p> <p>Rule 73 Communication of the International Preliminary Examination Report</p> <p>73.1 Preparation of Copies</p> <p>73.2 Time Limit for Communication</p> <p>Rule 74 Translations of Annexes of the International Preliminary Examination Report and Trans Thereof</p> <p>74.1 Contents of Translation and Time Transmittal Thereof</p> <p>Rule 75 <i>[Deleted]</i></p> <p>Rule 76 Copy, Translation and Fee under Article 39 Translation of Priority Document</p> <p>76.1 <i>[Deleted]</i></p> <p>76.2 <i>[Deleted]</i></p> <p>76.3 <i>[Deleted]</i></p> <p>76.4 Time Limit for Translation of Document</p> <p>76.5 Application of Rules 22.1(g), 49 and 76.6 Transitional Provision</p> <p>Rule 77 Faculty under Article 39(1)(b)</p> <p>77.1 Exercise of Faculty</p> <p>Rule 78 Amendment of the Claims, the Description and the Drawings, before Elected Offices</p> <p>78.1 Time Limit Where Election Is Effective to Expiration of 19 Months from Date</p> <p>78.2 Time Limit Where Election Is Effective to Expiration of 19 Months from Priority Date</p> <p>78.3 Utility Models</p>
<p><i>Part D: Rules Concerning Chapter III of the Treaty</i></p>	
	<p>Rule 79 Calendar</p> <p>79.1 Expressing Dates</p> <p>Rule 80 Computation of Time Limits</p> <p>80.1 Periods Expressed in Years</p> <p>80.2 Periods Expressed in Months</p> <p>80.3 Periods Expressed in Days</p> <p>80.4 Local Dates</p> <p>80.5 Expiration on a Non-Working Day</p>

MANUAL OF PATENT EXAMINING PROCEDURE

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| <p>Rule 80 Computation of Time Limits—Con.</p> <p>80.6 Date of Documents</p> <p>80.7 End of Working Day</p> <p>Rule 81 Modification of Time Limits Fixed in the Treaty</p> <p>81.1 Proposal</p> <p>81.1^{bis} Where the International Bureau is the Receiving Office</p> <p>81.2 Decision by the Assembly</p> <p>81.3 Voting by Correspondence</p> <p>Rule 82 Irregularities in the Mail Service</p> <p>82.1 Delay or Loss in Mail</p> <p>82.2 Interruption in the Mail Service</p> <p>Rule 82^{bis} Excuse by the Designated or Elected State of Delays in Meeting Certain Time Limits</p> <p>82^{bis}.1 Meaning of "Time Limit" in Article 48(2)</p> <p>82^{bis}.2 Reinstatement of Rights and Other Provisions to Which Article 48(2) Applies</p> <p>Rule 82^{ter} Rectification of Errors Made by the Receiving Office or by the International Bureau</p> <p>82^{ter}.1 Errors Concerning the International Filing Date and the Priority Claim</p> <p>Rule 83 Right to Practice before International Authorities</p> <p>83.1 Proof of Right</p> <p>83.1^{bis} Where the International Bureau is the Receiving Office</p> <p>83.2 Information</p> | <p>88.4 Procedure</p> <p>Rule 89 Administrative Instructions</p> <p>89.1 Scope</p> <p>89.2 Source</p> <p>89.3 Publication and Entry into Force</p> <p><i>Part F: Rules Concerning Several Chapters of the Treaty</i></p> <p>Rule 90 Agents and Common Representatives</p> <p>90.1 Appointment as Agent</p> <p>90.2 Common Representative</p> <p>90.3 Effects of Acts by or in Relation to Agent and Common Representatives</p> <p>90.4 Manner of Appointment of Agent or Common Representative</p> <p>90.5 General Power of Attorney</p> <p>90.6 Revocation and Renunciation</p> <p>Rule 90^{bis} Withdrawals</p> <p>90^{bis}.1 Withdrawal of the International Applicant</p> <p>90^{bis}.2 Withdrawal of Designations</p> <p>90^{bis}.3 Withdrawal of Priority Claims</p> <p>90^{bis}.4 Withdrawal of the Demand, or of Election</p> <p>90^{bis}.5 Signature</p> <p>90^{bis}.6 Effect of Withdrawal</p> <p>90^{bis}.7 Faculty under Article 37(4)(b)</p> <p>Rule 91 Obvious Errors in Documents</p> <p>91.1 Rectification</p> <p>Rule 92 Correspondence</p> <p>92.1 Need for Letter and for Signature</p> <p>92.2 Languages</p> <p>92.3 Mailings by National Offices and Intergovernmental Organizations</p> <p>92.4 Use of Telegraph, Teleprinter, Facsimile Machine, Etc.</p> <p>Rule 92^{bis} Recording of Changes in Certain Indications in the Request or the Demand</p> <p>92^{bis}.1 Recording of Changes by the International Bureau</p> <p>Rule 93 Keeping of Records and Files</p> <p>93.1 The Receiving Office</p> <p>93.2 The International Bureau</p> <p>93.3 The International Searching and Preliminary Examining Authorities</p> <p>93.4 Reproductions</p> <p>Rule 94 Furnishing of Copies by the International Bureau and the International Preliminary Examining Authority</p> <p>94.1 Obligation To Furnish</p> <p>Rule 95 Availability of Translations</p> <p>95.1 Furnishing of Copies of Translations</p> |
| <p><i>Part E: Rules Concerning Chapter V of the Treaty</i></p> | |
| <p>Rule 84 Expenses of Delegations</p> <p>84.1 Expenses Borne by Governments</p> <p>Rule 85 Absence of Quorum in the Assembly</p> <p>85.1 Voting by Correspondence</p> <p>Rule 86 The Gazette</p> <p>86.1 Contents</p> <p>86.2 Languages</p> <p>86.3 Frequency</p> <p>86.4 Size</p> <p>86.5 Title</p> <p>86.6 Further Details</p> <p>Rule 87 Copies of Publications</p> <p>87.1 International Searching and Preliminary Examining Authorities</p> <p>87.2 National Offices</p> <p>Rule 88 Amendment of the Regulations</p> <p>88.1 Requirement of Unanimity</p> <p>88.2 <i>[Deleted]</i></p> <p>88.3 Requirement of Absence of Opposition by Certain States</p> | |

PATENT COOPERATION TREATY

- Rule 96 The Schedule of Fees
96.1 Schedule of Fees Annexed to Regulations

Schedule of Fees

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.

2.2^{bis} *"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

Rule 3

The Request (Form)

3.1 *Form of Request*

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

3.2 *Availability of Forms*

Copies of the printed form shall be furnished 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 the international application (request, claims, drawings, abstract);

(ii) whether or not the international application is accompanied by a power of attorney (i.e., a power appointing an agent or a common representative, a general power of attorney, a priority document relating to the payment of fees, and any other document to be specified in the check list);

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

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

3.4 *Particulars*

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

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,

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 4

(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 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.

(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.

4.6 *The Inventor*

(a) Where Rule 4.1(a)(v) 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*

If agents are designated, the request shall so indicate, and shall state their names and addresses.

4.8 *Common Representative*

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

PATENT COOPERATION TREATY

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 Claim

(a) The declaration referred to in Article 8(1) shall 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) when the earlier application is not a regional or an international application, the country in which it was filed; when the earlier application is a regional or an international application, the country or countries for which it was filed,

(ii) the date on which it was filed,

(iii) the number under which it was filed, and,

(iv) when the earlier application is a regional or an international application, the national Office or intergovernmental organization with which it was filed.

(b) If the request does not indicate both

(i) when the earlier application is not a regional or an international application, the country in which such earlier application was filed; when the earlier application is a regional or an international application, at least one country for which such earlier application was filed, and

(ii) the date on which the earlier application claiming the priority claim shall, for the purposes of the present Treaty, be considered not to have been made, where, resulting from an obvious error, the date of the said country or the said date is missing or is erroneous, the receiving Office may, at the request of the applicant, make the necessary correction. The error shall be considered an obvious error whenever the correction is obvious in comparison with the earlier application. Where the error is the result of the omission of the indication of the said date, the correction can only be made before the transmittal of a copy to the International Bureau. In the case of an error relating to the indication of the said date or in any error relating to the indication of the said date, the correction can only be made before the expiration of the time limit under Rule 17.1(a) computed on the basis of the priority date.

(c) If the application number of the earlier application is not indicated in the request but is furnished by the applicant to the International Bureau or to the receiving Office prior to the expiration of the 16th month from the filing date, it shall be considered by all designated States to have been furnished in time.

(d) If the filing date of the earlier application indicated in the request does not fall within the period of one year preceding the international filing date, the receiving Office, or, if the receiving Office has failed to do so, the International Bureau, shall invite the applicant to act for the cancellation of the declaration made under Article 8(1) or, if the date of the earlier application indicated erroneously, for the correction of the date indicated. If the applicant fails to act accordingly within the period of one month from the date of the invitation, the declaration made under Article 8(1) shall be cancelled *ex officio*.

(e) Where the priorities of several earlier applications are claimed, the provisions of paragraphs (a) through (d) shall apply to each of them.

4.11 Reference to Earlier Search

If an international or international-type search has been requested on an application under Article 17 and the applicant wishes the International Searching Authority to base the international search report wholly or partly on the results of a search, other than an international-type search, made by the national Office or intergovernmental organization which is the International Searching Authority competent for the international search, the request shall contain a reference to such search. Such reference shall either identify the applicant's national translation, as the case may be) in respect of which the search was made by indicating country, date and

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 5

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 or 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 satisfac-

tion 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 Additional Matter

(a) The request shall contain no matter other than that specified in Rules 4.1 to 4.16, 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 4.16 or permitted under paragraph (a) by the Administrative Instructions, the receiving Office shall *ex officio* delete the additional matter.

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:

PATENT COOPERATION TREATY

(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

Where the international application contains disclosure of a nucleotide and/or amino acid sequence, the description shall contain a listing of the sequence complying with the standard prescribed by the Administrative Instructions.

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 with the features of the prior art,

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

(c) Where the national law of the designated State does not require the manner of claiming provided for in (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 to the other claim or claims (hereinafter referred to as "independent claim" or "multiple dependent claim" which refers to more than one other claim) which it depends upon. Multiple dependent claims shall not be drafted in a manner different from that set forth 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 that manner of claiming shall have no effect in the 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, in addition to the limitations contained in the particular claim in which it is considered.

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

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 7

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

Flowsheets 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 the 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 Au-

PATENT COOPERATION TREATY

thority 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 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 (request, the description, the claims, the drawings, abstract) shall be so presented as to admit of direct reproduction by photography, electrostatic processes, photo offset microfilming, in any number of copies.

(b) All sheets shall be free from creases and crumpling; 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 side top and bottom).

11.3 Material to Be Used

All elements of the international application shall be printed on paper which shall be flexible, strong, white, smooth, 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 connected so 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 transmitted to the International Bureau, and, if the receiving Office so desires, the 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 used shall not exceed 26.2 cm x 17.0 cm. The sheets shall not have frames around the usable or used surface. The minimum margins shall be as follows:

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 11

- top: 2.5 cm
- left side: 2.5 cm
- right side: 1.5 cm
- bottom: 1.0 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 languages 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 languages.

11.10 Drawings, Formulae, and Tables, in Text Matter

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

(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.

PATENT COOPERATION TREATY

(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 – submitted after the filing of the international application.

Rule 12

Language of the International Application

12.1 *Admitted Languages*

(a) Any international application shall be filed in the language, or one of the languages, specified in the agreement concluded between the International Bureau and the International Searching Authority competent for the international searching of that application, provided that, if the agreement specifies several languages, the receiving Office may prescribe among the specified languages that language in which or those languages in one of which the international application must be filed.

(b) Notwithstanding paragraph (a), the request, any text matter of the drawings, and the abstract need not be in the same language as other elements of the international application, provided that:

(i) the request is in a language admitted under (a) or in the language in which the international application is to be published;

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

(iii) the abstract is in the language in which the international application is to be published.

(c) Subject to paragraph (d), where the language of the receiving Office is one of the languages referred to in Rule 48.3(a) but is a language not specified in the agreement referred to in paragraph (a), the international application may be filed in the said official language. If the international application is filed in the said language, the search copy transmitted to the International Searching Authority under Rule 23.1 shall be accompanied by a translation into the language, or one of the languages specified in the agreement referred to in paragraph (a). Such translation shall be prepared under the supervision of the receiving Office.

(d) Paragraph (c) shall apply only where the International Searching Authority has declared, in a communication addressed to the International Bureau, that it will accept for search international applications on the basis of the language referred to in paragraph (c).

12.2 *Language of Changes in the International Application*

Any changes in the international application, including amendments and corrections, shall, subject to Rule 66.9, be in the same language as the said application.

Rule 13

Unity of Invention

13.1 *Requirement*

The international application shall relate to a single 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 international application, the requirement of unity of invention referred to in Rule 13.1 shall be considered fulfilled when there is a technical relationship among the inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features which each of the claimed inventions contributes over the prior art.

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 13^{bis}

13.3 *Determination of Unity of Invention Not Affected 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 13^{bis}

Microbiological Inventions

13^{bis}.1 *Definition*

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

13^{bis}.2 *References (General)*

Any reference to a deposited microorganism 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.

13^{bis}.3 *References: Contents; Failure to Include Reference or Indication*

(a) A reference to a deposited microorganism shall indicate,

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

(ii) the date of deposit of the microorganism 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 a deposited microorganism or failure to include, in a reference to a deposited microorganism, 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.

13^{bis}.4 *References: Time of Furnishing Indications*

If any of the indications referred to in Rule 13^{bis}.3(a) is not included in a reference to a deposited microorganism in the international application as filed but is furnished by the applicant to the International Bureau within 16 months after the priority date, the indication shall be considered by any designated Office to have been furnished in time unless its national law requires the indication to be furnished at an earlier time in the case of a national application and the International Bureau has been notified of such requirement pursuant to Rule 13^{bis}.7(a)(ii), provided that the International Bureau 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. In the event that the applicant makes a request for early publication under Article 21(2)(b), however, any designated Office may consider any indication not furnished by the time such request is made as not having been furnished in time. Irrespective of whether the applicable time limit under the preceding sentences has been observed, the International Bureau shall notify the applicant and the designated Offices of the date on which it has received any indication not included in the international application as filed. The International Bureau shall indicate that date in the international publication of the international application if the indication has been furnished to it before the completion of technical preparations international publication.

13^{bis}.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 a deposited microorganism 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 microorganism may be made for different designated States.

PATENT COOPERATION TREATY

(c) Any designated Office shall be entitled to disregard a deposit made with a depositary institution other than one notified by it under Rule 13^{bis}.7(b).

13^{bis}.6 *Furnishing of Samples*

(a) Where the international application contains a reference to a deposited microorganism, the applicant shall, upon the request of the International Searching Authority or the International Preliminary Examining Authority, authorize and assure the furnishing of a sample of that microorganism by the depositary institution to the said Authority, provided that the said Authority has notified the International Bureau that it may require the furnishing of samples and that such samples will be used solely for the purposes of international search or international preliminary examination, as the case may be, and such notification has been published in the Gazette.

(b) Pursuant to Articles 23 and 40, no furnishing of samples of the deposited microorganism 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 microorganism may take place, once the said acts have been performed. Notwithstanding the previous provision, the furnishing of samples from the deposited microorganism may take place under the national law applicable for 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.

13^{bis}.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 a deposited microorganism 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 after the priority date.

(b) Each national Office shall notify the International Bureau of the depositary institutions with which the national law permits deposits of microorganisms to be made for the purposes of patent procedure before that Office or,

if the national law does not provide for or permits deposits, of that fact.

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

Rule 13^{ter}

Nucleotide and/or Amino Acid Sequence Listing

13^{ter}.1 *Sequence Listing for International Authorities*

(a) If the International Searching Authority requires a nucleotide and/or amino acid sequence listing to be filed with the standard prescribed in the Administrative Instructions under Rule 5.2, and/or is not in a machine readable form provided for in those Instructions, it may require the applicant, within a time limit fixed in the invitation, to furnish:

(i) to furnish to it a listing of the sequence in the prescribed standard, and/or

(ii) to furnish to it a listing of the sequence in a machine readable form provided for in the Administrative Instructions or, if that Authority is prepared to transcribe the sequence listing into such a form, to pay for the transcription.

(b) Any sequence listing furnished under paragraph (a) shall be accompanied by a statement to the effect that the listing does not include matter which goes beyond the disclosure in the international application as filed.

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

(d) If the International Searching Authority requires a machine readable form, it shall send a copy of the listing in machine readable form to the applicant.

(e) The International Searching Authority shall, upon request, make available to the International Preliminary Examining Authority a copy of any sequence listing in machine readable form, or as transcribed by it, under paragraph (a).

(f) A sequence listing furnished to the International Searching Authority, or as transcribed by it, under paragraph (a) shall not form part of the international publication.

13^{ter}.2 *Sequence Listing for Designated Office*

(a) Once the processing of the international application has started before a designated Office, that Office may require the applicant to furnish to it a copy of any sequence listing furnished to the International Searching Authority, or as transcribed by that Authority, under Rule

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 14

(b) If a designated Office finds that a nucleotide and/or amino acid sequence listing does not comply with the standard prescribed in the Administrative Instructions under Rule 5.2, and/or is not in a machine readable form provided for in those Instructions, and/or no listing of the sequence was furnished to the International Searching Authority, or transcribed by that Authority, under Rule 13^{ter}.1(a), that Office may require the applicant:

(i) to furnish to it a listing of the sequence complying with the prescribed standard, and/or

(ii) to furnish to it a listing of the sequence in a machine readable form provided for in the Administrative Instructions or, if that Office is prepared to transcribe the sequence listing into such a form, to pay for the cost of such transcription.

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 and the due date of the transmittal fee, if any, shall be fixed by the receiving Office.

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) by the applicant in the international application, except that, where Article 44 applies in respect of a designation, only one designation fee shall be due for that designation.

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 amounts of the basic fee and of the designation fee shall be established, for each receiving Office which, under Rule 15.3, prescribes the payment of those

fees in a currency or currencies other than Swiss currency, by the Director General after consultation with that Office and in the currency or currencies prescribed by that Office ("prescribed currency"). The amounts in each prescribed currency shall be the equivalent, in round figures, of the amounts in Swiss currency set out in the Schedule of Fees. They 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 interested Office 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 for that Office from that date.

15.3 *Mode of Payment*

The international fee shall be payable in the currency or currencies prescribed by the receiving Office, it being understood that, when transferred by the receiving Office to the International Bureau, the amount transferred shall be freely convertible into Swiss currency.

15.4 *Time of Payment*

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

(b) The designation fee shall be paid:

(i) where the international application does not contain a priority claim under Article 8, within one year from the date of receipt of the international application,

(ii) where the international application contains a priority claim under Article 8, within one year from the priority date or within one month from the date of receipt of the international application if that month expires after the expiration of one year from the priority date.

(c) Where the basic fee or the designation fee is paid later than the date on which the international application was received and where the amount of that fee is, in the currency in which it is payable, higher on the date of payment ("the higher amount") than it was on the date on which the international application was received ("the lower amount"),

(i) the lower amount shall be due if the fee is paid within one month from the date of receipt of the international application,

PATENT COOPERATION TREATY

(ii) the higher amount shall be due if the fee is paid later than one month from the date of receipt of the international application.

(d) *[Deleted]*

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), as set out in the Schedule of Fees.

(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, or

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

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 currencies prescribed by that Office ("the 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 ("the fixed currency or currencies"), 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 ("the headquarters currency"). The amount of the search fee in any receiving Office currency, other than the fixed currency or currencies, shall be established by the Di-

rector General after consultation with that amounts so established shall be the equivalent figures, of the amount established by the International Searching Authority in the headquarters currency 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 currencies, shall be applied from the same changed amount in the headquarters currency.

(d) Where the exchange rate between the headquarters currency and any receiving Office currency, 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 six months after its publication in the Gazette, unless any interested receiving Office 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 belong to the International Searching Authority by the International Bureau, whereas, if the amount actually received is more than that fixed by it, the difference will belong to the International Searching Authority.

(f) As to the time of payment of the search fee, the provisions of Rule 15.4 relating to the basic fee shall apply.

16.2 Refund

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

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

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

16.3 Partial Refund

Where the international application claim is based on an earlier international application which was 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 laid down in the agreement under Article 16(3)(b), if the search report on the later international application is published.

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 16^{bis}

wholly or partly be based on the results of the international search effected on the earlier international application.

Rule 16^{bis}

Extension of Time Limits for Payment of Fees

16^{bis}.1 *Invitation by the Receiving Office*

(a) Where, by the time they are due under Rule 14.1(b), Rule 15.4(a) and Rule 16.1(f), the receiving Office finds that in respect of an international application no fees were paid to it by the applicant, or that the amount paid to it by the applicant is less than what is necessary 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 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 in respect of an international application the payment made by the applicant 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 one month from the date of the invitation.

(c) Where the receiving Office has sent to the applicant an invitation under paragraph (a) or (b) and the applicant has not, within one month from the date of the invitation, paid in full the amount due, including, where applicable, the late payment fee under Rule 16^{bis}.2, the receiving Office shall:

(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.

16^{bis}.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 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.

(c) *[Deleted]*

Rule 17

The Priority Document

17.1 *Obligation to Submit Copy of Earlier National Application*

(a) Where the priority of an earlier national application is claimed under Article 8 in the international application, a copy of the said national 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, be submitted by the applicant to the International Bureau or to the receiving Office not later than 16 months after the priority date in the case referred to in Article 23(2), not later than the time the processing or examination is requested.

(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 transmit the priority document to the International Bureau. Such request shall be made not later than the expiration of the applicable time limit referred to under paragraph (a) and may be subjected by the receiving Office to the payment of fee.

(c) If the requirements of neither of the two preceding paragraphs are complied with, any designated State may disregard the priority claim.

17.2 *Availability of Copies*

(a) The International Bureau shall, at the specific request of the designated Office, promptly but not before the expiration of the time limit fixed in Rule 17.1(a), furnish a copy of the priority document to that Office. No such Office shall ask the applicant himself to furnish it with a copy except where it requires the furnishing of a copy of the priority document together with a certified translation thereof. The applicant shall not be required to furnish a certified translation to the designated Office before the expiration of the applicable time limit under Article 22.

(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 was considered, under Rule 4.10(b), not to have been made, or

(iii) the relevant declaration under Article 8(1) was cancelled under Rule 4.10(d).

(d) Paragraphs (a) to (c) shall apply also to any earlier international application whose priority is claimed in the subsequent international application.

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

(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 the International Bureau that the national Office of the latter State or any intergovernmental organization shall, for all or some of the purposes of this Treaty, act instead of the national Office of the former State as the competent 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 9(2).

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

19.2 Two or More Applicants

If there are two or more applicants,

(i) the requirements of Rule 19.1 shall be met if the national Office with which the application is filed is the national Office of or acting for the 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. The International Bureau shall promptly notify the national Office of or acting for the Contracting State which delegates the duties of receiving Office to the national Office of or acting for the Contracting State or an intergovernmental organization.

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

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 20

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 by an applicant who is a resident or national of a Contracting State, but that national Office is not competent under Rule 19.1 or 19.2 to receive that international application, 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.

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.

20.3^{bis} *[Deleted]*

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 elements referred to in Article 11(1)(iii)(d) and (e) be in a language admitted under Rule 12.1(a) or (c).

(d) If, on July 12, 1991, 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, 1991. 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.

PATENT COOPERATION TREATY

(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.

Rule 21

Preparation of Copies

21.1 Responsibility of the Receiving Office

(a) Where the international application is 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 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 more than one copy, the receiving Office shall be responsible for the preparation of the number of copies required, and shall have the right to fix a fee for performing that task and to demand such fee from the applicant.

Rule 22

Transmittal of the Record Copy

22.1 Procedure

(a) If the determination under Article 11(1) is negative, and unless prescriptions concerning nationality 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 security must be performed, as soon as the clearance has been obtained. In any case, the receiving Office shall transmit the record copy in time 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 transmit 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 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 to transmit the record copy to the International Bureau promptly.

(c) If the International Bureau has received 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 remind the receiving Office to transmit the record copy to the International Bureau promptly.

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 23

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).

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

23.1 *Procedure*

(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) [Deleted]

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 the 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, pref-

PATENT COOPERATION TREATY

erably 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)

The physical requirements referred to in Rule 11 shall be checked only to the extent that compliance therewith is necessary for the purpose of reasonably uniform international publication.

26.3^{bis} Invitation to Correct Defects under Article 14(1)(b)

The receiving Office shall not be required to issue the invitation to correct a defect under Article 14(1)(a)(v) where the physical requirements referred to in Rule 11 are complied with to the extent necessary for the purpose of reasonably uniform international publication.

26.3^{ter} Invitation to Correct Defects under Article 3(4)(i)

(a) Where any element of the international application, other than those referred to in Article 11(1)(iii)(d) and (e), does not comply with Rule 12.1, the receiving Office shall invite the applicant to file the required correction. Rules 26.1(a), 26.2, 26.5 and 29.1 shall apply *mutatis mutandis*.

(b) If, on July 12, 1991, 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, 1991. The information received shall be promptly published by the International Bureau in the Gazette.

26.4 Procedure

(a) 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.

(b) to (d) [Deleted]

26.5 Decision of the Receiving Office

(a) 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 as published, provided that no international application shall be considered withdrawn for lack of compliance with the requirements referred to in Rule 11 if it complies with the requirements to the extent necessary for the purpose of reasonably uniform international publication.

(b) [Deleted]

26.6 Missing Drawings

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

(b) The date on which the applicant rectifies the defect provided for in Article 14(2) shall be the date on which the time limit fixed under Rule 20.2(a) expires.

Rule 27

Lack of Payment of Fees

27.1 Fees

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

(b) For the purposes of Article 14(3)(a), "fees under Article 4(2)" means the fee part of the international fee (Rule 15.1(ii)), the late payment fee (Rule 16^{bis}.2), 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 Searching Authority, an international application contains any of the defects referred to in Article 14(1)(a)(i), (ii), or (v), the International Searching Authority 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 26.5 and Rule 26.

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 29

Rule 29

International Applications or Designations Considered Withdrawn under Article 14(1), (3), or (4)

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 noncompliance with the requirements listed in items (i) to (iii) of Article 11(1)), 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 *[Deleted]*

Rule 32^{bis} *[Deleted]*

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.

PATENT COOPERATION TREATY

(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' certifi-

cates, and the published regional patents and inventors' certificates,

(iii) such other published items of nonpatent literature as the International Searching Authorities shall agree to publish and which shall be published in a list by the International Searching Authority when agreed upon for the first time and changed.

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

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

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

(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 Soviet Union,

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

(vi) such patents issued by, and such patent applications published in, any other country after 1920 as English, French, German, or Spanish language, 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 in the form of an *Offenlegungsschrift* as an *Auslegungsschrift*) or once, no International Searching Authority shall be obliged to keep all versions in its documentation; consequently, such Authority shall be entitled not to keep more than one version. Furthermore, where an application is granted in the form of a patent or a utility certificate, no International Searching Authority shall be obliged to keep both the application and the patent or utility certificate (France) in its documentation; consequently, each International Searching Authority shall be entitled to keep either the application or the patent or utility certificate (France) only.

(e) Any International Searching Authority which is not in a language, or one of whose official languages, is not English, French, German, Russian, or Spanish is entitled not to include in its documentation those patent documents of Japan and the 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 the Treaty 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

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 35

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 published or, if a translation was transmitted under Rule 12.1(c) 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

PATENT COOPERATION TREATY

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 published or, if a translation was transmitted under Rule 12.1(c) 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 the international search under Article 17(3)(a) shall be determined by the 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 does not comply 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 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. Where the request of the applicant, the text of both the protest and the decision thereon shall be notified to the International Offices together with the international search report, the applicant shall submit any translation thereof necessary for the finishing 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 under protest 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 international application for the invitation to pay an additional fee, require the applicant to 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 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 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 be shorter than 15 or 30 days, respectively, depending on whether the applicant's address is in the same country or in a different country from that in which the International Searching Authority is located, and it shall not exceed 45 days, from the date of the invitation.

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 41

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 published or, if a translation was transmitted under Rule 12.1(c) 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. Fur-

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 47

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

(a) 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.

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

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.

(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

The international application communicated under Article 20 shall be in the language in which it is published provided that if that language is different from the language in which it was filed it shall, on the request of the designated Office, be communicated in either or both of these languages.

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

PATENT COOPERATION TREATY

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) any indications in relation to a deposited microorganism furnished under Rule 13^{bis} separately from the description, together with an indication of the date on which the International Bureau received such indications.

(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.

(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 42. 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 for amending the claims under Article 19 has not expired, the pamphlet shall refer to that fact and indicate that, if the claims are amended under Article 19, then, promptly after such amendments, either the pamphlet (containing the claims as amended) will be republished or a statement indicating all the amendments will be published. In the latter case, at least the front page and the claims shall be republished. 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 or the volume of the international application and other factors.

48.3 Languages

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

(b) If the international application is filed in a language other than Chinese, English, French, German, Japanese, Russian, or Spanish, that application shall be published in the English translation. The translation shall be prepared at the expense and responsibility of the International Searching Authority. The International Searching Authority shall be obliged to have it ready in time to permit international publication by the prescribed date, or, where Rule 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 for the comments, reasonable under the circumstances of the case for each case. If there is no time to take the comments of the applicant into account before the translation is communicated, the International Searching Authority shall give the applicant an opportunity to comment on the draft translation. If there is a difference of opinion between the applicant and the International Searching Authority as to the correct translation, the applicant shall send a copy of his comments, or what remains of the

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 49

International Bureau and each designated Office to which the translation was communicated. The International Bureau shall publish the essence 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 fur-

PATENT COOPERATION TREATY

nished 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, 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.

(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, if 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 drawings executed anew which has been furnished under paragraph (d) or (e) does not comply with the requirements referred to in Rule 11, the designated Office shall 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 the designated Office shall invite the applicant to furnish a 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 the 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 requirements other than those prescribed for the translation of the international application as filed.

(k) Where a title has been established by the International Searching Authority pursuant to Rule 37, the translation shall contain the title as established by the International Searching Authority.

(l) If, on July 12, 1991, paragraph (c^{bis}) of paragraph (k) is not compatible with the national law of a designated Office, the paragraph concerned shall continue to apply to that designated Office for as long as it continues to be compatible with that law, provided that the designated Office informs the International Bureau accordingly by July 31, 1991. The information received shall be published by the International Bureau in the Gazette.

Rule 50

Faculty under Article 22(3)

50.1 *Exercise of Faculty*

(a) Any Contracting State allowing a time limit for the filing of a translation later than the time limits provided for in Article 22(3) or (2) shall notify the International Bureau of the time limit so fixed.

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 51

(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 51^{bis}

Certain National Requirements Allowed under Article 27(1), (2), (6) and (7)

51^{bis}.1 *Certain National Requirements Allowed*

(a) The documents referred to in Article 27(2)(ii), or the evidence referred to in Article 27(6), which the applicant may be required to furnish under the national law applicable by the designated Office include, in particular:

- (i) any document relating to the identity of the inventor,
- (ii) any document relating to any transfer or assignment

of the right to the application,

(iii) any document containing an oath or declaration by the inventor alleging his inventorship,

(iv) any document containing a declaration by the applicant designating the inventor or alleging the right to the application,

(v) any document containing any proof of the right of the applicant to claim priority where he is different from the applicant having filed the earlier application the priority of which is claimed,

(vi) 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 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.

51^{bis}.2 *Opportunity to Comply with National Requirements*

(a) Where any of the requirements referred to in Rule 51^{bis}.1, or any other requirement of the national law applicable by the designated Office which that Office may apply under Article 27(1), (2), (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.

(b) The national law applicable by the designated Office may, in accordance with Article 27(2)(ii), require that the applicant, upon invitation by the designated Office, furnish a certification of the translation of the international application by a public authority or a sworn translator, if the designated Office deems such certification to be necessary under the circumstances, within a time limit which shall be reasonable under the circumstances and shall be fixed in the invitation.

(c) *[Deleted]*

PATENT COOPERATION TREATY

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 printout. The particulars of the printed form and of a demand presented as a computer printout 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.

(c) *[Deleted]*

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 the agent.

(b) The demand shall be signed.

53.3 The Petition

The petition shall be to the following effect, preferably be worded as follows: Demand under the Patent Cooperation Treaty: The undersigned of the international application specified below be the international preliminary examination according to the Patent Cooperation Treaty.

53.4 The Applicant

As to the indications concerning the applicant under Rule 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 designated in the demand shall so indicate. Rules 4.4 and 4.5 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 international application, the international filing date (if known to the applicant) and the international application number (if such number is not known to the applicant, the receiving Office with which the international application was filed).

53.7 Election of States

(a) The demand shall indicate at least one State, from among those States which are designated in Chapter II of the Treaty ("eligible States").

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

- (i) by an indication that all eligible States are elected,
- (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 States party to the regional patent treaty which are elected or an indication of those among the said States which 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.

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 54

(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 con-

cerned. The Office concerned shall decide the said question promptly.

54.2 Two or More Applicants

If there are two or more applicants, the right to make a demand under Article 31(2) shall exist if at least one of the applicants making the demand is

(i) 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, or

(ii) a person entitled to make a demand under Article 31(2)(b) and the international application has been filed as provided in the decision of the Assembly.

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)(ii) 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

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

(b) *[Deleted]*

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 the international application is neither filed nor published in the language, or one of the languages, specified in the agreement concluded between the International Bureau and the International Preliminary Examination Authority competent for the international preliminary examination of that application, that Authority may require that, subject to paragraph (b), the applicant furnish with the demand a translation of the international application into the language, or one of the languages, specified in the said agreement.

PATENT COOPERATION TREATY

Rule 56

Later Elections

(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 12.1(c) 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 12.1(c).

(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.

(e) Paragraphs (a) to (d) shall apply only where the International Preliminary Examining Authority has declared, in a notification addressed to the International Bureau, that it accepts to carry out international preliminary examination on the basis of the translation referred to in those paragraphs.

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.

56.1 Elections Submitted Later Than the Demand

(a) The election of States subsequent to the demand ("later election") shall be effective if it is submitted to the International Bureau. The notice effecting the election shall notify the international application and the demand, and shall include an indication as referred to in Rule 56.1(b).

(b) Subject to paragraph (c), the notice effecting the election under paragraph (a) shall be signed by the applicant in the name of the States concerned or, if there is more than one State, 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 the application be filed by the inventor or by the applicant for that elected State who is an inventor, the notice need not be signed by that applicant if it is signed by at least one other applicant concerned.

(i) If a statement is furnished explaining the reasons for the election of the International Bureau, the lack of signature of the applicant concerned, or

(ii) the applicant concerned did not sign the notice, the requirements of Rule 4.15(b) were complied with, the requirements of Rule 56.1(b) were complied with.

(d) An applicant for a State elected by a notice effecting 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 22 and that the acts referred to in Article 22 must be taken 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 after the date of receipt of the notice and transmit it to the International Bureau. The notice shall be effective if it has been submitted to the International Bureau on or before the date marked.

56.2 Identification of the International Applicant

The international application shall be identified in Rule 53.6.

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 57

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

(a) 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.

(b) *[Deleted]*

57.2 Amount

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

(b) *[Deleted]*

(c) The amount of the handling fee shall be established, for each International Preliminary Examining Authority which, under Rule 57.3(c), prescribes the payment of the handling fee in a currency or currencies other than Swiss currency, by the Director General after consultation with that Authority and in the currency or currencies prescribed by that Authority ("prescribed currency"). The amount in each prescribed currency shall be the equivalent, in round figures, of the amount of the handling fee in Swiss currency set out in the Schedule of Fees. The amounts in the prescribed currencies 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 and Mode of Payment

(a) The handling fee shall be due at the time the demand is submitted.

(b) *[Deleted]*

(c) The handling fee shall be payable in the currency or currencies prescribed by the International Preliminary Examining Authority to which the demand is submitted, it being understood that, when transferred by that Authority to the International Bureau, it shall be freely convertible into Swiss currency.

(d) *[Deleted]*

57.4 Failure to Pay

(a) Where the handling fee is not paid as required, the International Preliminary Examining Authority shall invite the applicant to pay the fee within one month from the date of the invitation.

(b) If the applicant complies with the invitation within the one-month time limit, the handling fee shall be considered as if it had been paid on the due date.

(c) If the applicant does not comply with the invitation within the prescribed time limit, the demand shall be considered as if it had not been submitted.

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(a), 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 and the due date of the preliminary examination fee, if any, shall be fixed by the International Pre-

PATENT COOPERATION TREATY

F

liminary Examining Authority, provided that the said due date shall not be earlier than the due date of the handling fee.

(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 Failure to Pay

(a) Where the preliminary examination fee fixed by the International Preliminary Examining Authority under Rule 58.1(b) is not paid as required under that Rule, the International Preliminary Examining Authority shall invite the applicant to pay the fee or the missing part thereof within one month from the date of the invitation.

(b) If the applicant complies with the invitation within the prescribed time limit, the preliminary examination fee will be considered as if it had been paid on the due date.

(c) If the applicant does not comply with the invitation within the prescribed time limit, the demand shall be considered as if it had not been submitted.

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 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 33(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)(ii), 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 International Preliminary Examining Authority, 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 Office; 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.

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) to 53.8, and 55.1, the International Preliminary Examining Authority shall invite the applicant to correct the demand 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 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 date, provided that the demand as submitted contained at least one election and permitted the international preliminary examination 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 received 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.

(d) Where, after the expiration of the time limit under paragraph (a), a signature required under Rule 53.2(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 Preliminary Examining Authority, it shall bring the defect to the attention of the International Preliminary Examining Authority, which shall proceed as provided in paragraphs (a) to (d).

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 61

(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.

(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 send the demand to the International Bureau, and shall prepare and keep a copy in its files.

(b) The International Preliminary Examining Authority shall promptly inform the applicant in writing of the date of receipt of the demand. Where the demand has been consid-

ered under Rules 54.4(a), 57.4(c), 58.2(c) 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 prior to the expiration of the 19th month from the priority date, the International Bureau shall publish a notice of that fact in the Gazette promptly after the filing of the demand, but not before the international publication of the international application. The notice shall indicate all designated States bound by Chapter II which have not been elected.

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 from the International Preliminary Examining Authority, the International Bureau shall promptly transmit a copy of any amendments under Article 19 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

(a) 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 a copy of such amendments with the International Preliminary Examining Authority. In any case, the International Bureau shall promptly transmit a copy of such amendments to that Authority.

(b) *[Deleted]*

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 will be:

(i) subject to item (ii), the international filing date of an 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 by means of an oral disclosure, use, exhibition or non-written means ("non-written disclosure") before the relevant date as defined in Rule 64.1(b) and the date of non-written disclosure is indicated in a written disclosure which has been made available to the public on a date 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 in Rule 70.9.

64.3 Certain Published Documents

In cases where any application or any patent which constitutes prior art for the purposes of Article 33(2) had 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 not take into consideration the claim's relation to individual documents or parts thereof taken separately but only in relation to combinations of such documents or parts thereof, where such combinations are obvious to a person skilled in the art.

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 66

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

PATENT COOPERATION TREATY

additional opportunities to submit amendments or arguments.

66.4^{bis} *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 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) 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 re-

placed sheets and the replacement sheets. Where the amendment consists in the deletion of passages or in modifications or additions, it may be made on a copy of the sheet of the international application, provided that clarity and direct reproducibility of that sheet are not affected. To the extent that any amendment results in cancellation of an entire sheet, that amendment shall be indicated in a letter.

(b) *[Deleted]*

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 the letter referred to in Rule 66.8(a), shall be submitted in the language of the publication.

(b) If the international preliminary examination report is issued pursuant to rule 55.2, on the basis of a translation of the international application, any amendment, as well as the 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 submitted in a language as required under paragraph (b), the International Preliminary Examining Authority, if practicable, having regard to the time limit for establishing the international preliminary examination report, shall invite the applicant to furnish the amendment or letter in the language within a time limit which shall be reasonable in 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, 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, or microbiological processes and the products of such processes.

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 68

(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

PATENT COOPERATION TREATY

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

(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 if the demand was filed prior to the expiration of 19 months from the priority date;

(ii) nine months from the start of the international preliminary examination if the demand was filed after the expiration of 19 months from the priority date.

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 be issued 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 scope of 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 scope of the international application as filed.

(d) Where claims relate to inventions in respect of which no international search report has been established, the report shall indicate that the international preliminary examination has 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 number, the international application filing date, 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;

(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 in 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 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 specified in the Administrative Instructions, and shall be accompanied by the citations, explanations, and observations 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 (nonobviousness), or industrial applicability) is not satisfied, the statement shall be "NO." In such a case, any of the criteria, taken separately, shall be specified in the report, and the report shall specify the criterion or criteria so satisfied.

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 70

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).

(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 ob-

servations 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 reports;

(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 of the Report

Each replacement sheet under Rule 66.8(a) and each replacement sheet containing amendments under Article 19 shall, unless superseded by later replacement sheets, 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(a) shall not be annexed.

70.17 Languages of the Report and the Annexes

(a) 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.

(b) [Deleted]

PATENT COOPERATION TREATY

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 documents to be communicated under Article 20.

73.2 Time Limit for Communication

The communication provided for in Article 20 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 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 the report is in the language of the required translation of the international application. The same time limit shall apply with respect to the furnishing of a translation of the international application if the elected Office must, because of a declaration made under Article 64(2)(a)(i), be effected within the time limit 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 the Treaty, 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 20 and Translation of Priority Documents

76.1, 76.2, and 76.3 *[Deleted]*

76.4 Time Limit for Translation of Priority Documents

The applicant shall not be required to furnish to the elected Office a certified translation of the priority documents.

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 77

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 fulfilment of the requirement 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 amendment under Article 41, the time limit for making amendment 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.

PATENT COOPERATION TREATY

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 an 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, or on which ordinary mail is not delivered to the locality in which such Office or organization is situated, the period shall expire on the next subsequent day or other of the said two circumstances exists.

80.6 *Date of Documents*

(a) Where a period starts on the day of the document or letter emanating from a national Office or intergovernmental organization, any interested party may, if 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 which such a document or letter was mailed, if it is received by the national Office or intergovernmental organization with which the document must be filed or to which the fee must be paid more than seven days after the date it bears, the period shall expire on the date of the document or letter, or, if the period expires later by an additional number of days with respect to the number of days which the document or letter was received later than seven days after the date it bears, the period shall expire on the date of the document or letter.

(b) *[Deleted]*

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.

(c) *[Deleted]*

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 submitted to the Director General.

81.2 *Decision by the Assembly*

(a) When the proposal is made to the Assembly, the proposal 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.

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 82

(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 82^{bis}

Excuse by the Designated or Elected State of Delays in Meeting Certain Time Limits

82^{bis}.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;

PATENT COOPERATION TREATY

(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.

82^{bis}.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 82^{ter}

Rectification of Errors Made by the Receiving Office or by the International Bureau

82^{ter}.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 declaration made under Article 8(1) has been erroneously cancelled or corrected by the receiving Office or the International Bureau, 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 declaration under Article 8(1) had not been cancelled or corrected, as the case may be.

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.

83.1^{bis} *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).

(t) 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 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 the 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, the International Preliminary Examining Authority, and the competent International Preliminary Examining Authority.

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 the Assembly 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 procedure) to the Contracting States which were not present and shall invite them to express in writing their vote or abstention within a period of three months from the date of 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, such decisions shall take effect provided that at the time the required majority still obtains.

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 86

Rule 86 The Gazette

86.1 Contents

The Gazette referred to in Article 55(4) shall contain:

(i) for each published international application, 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.

86.2 Languages

(a) The Gazette shall be published in an English-language edition and a French-language 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).

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.

PATENT COOPERATION TREATY

Ru

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 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 Inter-

national Bureau, the International Searching Authority, 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 subagents to represent the applicant as the applicant's agent:

(i) before the receiving Office, the International Searching Authority, and the International Preliminary Examining Authority, provided that any person 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 none of the applicants has appointed an agent representing 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 none of the applicants has 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 same effect of an act by or in relation to the applicant or applicant concerned.

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 90^{bis}

(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 nonexistent 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 appoint-

ment 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 subagent 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 90^{bis}

Withdrawals

90^{bis}.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.

90^{bis}.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.

90^{bis}.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.

90^{bis}.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.

90^{bis}.5 *Signature*

(a) Any notice of withdrawal referred to in Rules 90^{bis}.4 shall, subject to paragraph (b), be signed by the applicant. Where one of the applicants is considered to be the 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 who is an applicant for that designated State who is an inventor or co-inventor, a notice of withdrawal referred to in Rules 90^{bis}.1 to 90^{bis}.4 need not be signed by the applicant concerned ("the applicant concerned") if it is signed by 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,

(ii) in the case of a notice of withdrawal referred to in Rules 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 request 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.

90^{bis}.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 Office where the processing or examination of the international application has already started under Rule 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.

90^{bis}.7 *Faculty under Article 37(4)(b)*

(a) Any Contracting State whose national law requires that a notice of withdrawal be filed with the national authority 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 Bulletin, and shall have effect in respect of international applications filed more than one month after the date of such notification.

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 91

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(a) 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, and

(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 pam-

phlet 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

PATENT COOPERATION TREATY

the noncompliance 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 noncompliance 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 12.1(c) or furnished under Rule 55.2(a) or (c), 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

(a) A document making up the international application, and any later document or correspondence thereto, may, notwithstanding the provisions of Rule 11 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 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) and part or all of the received document is illegible or no document is received, the document shall be treated as if 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 concerned 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) be accompanied by an accompanying letter identifying that earlier transmission, provided that such requirement has been notified in the International Bureau and the International Bulletin of the International Office for the Protection of Industrial Property published information thereon in the Gazette. The accompanying letter 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 shall, pending on the kind of document transmitted and in accordance with regard to Rules 11 and 26.3,

(i) waive the requirement under paragraph (d);

(ii) invite the applicant to furnish, within a time limit which shall be reasonable under the circumstances, 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 that Office or organization may issue such an invitation in addition to, or instead of, proceeding under item (i).

(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 require the applicant to furnish the original of the said document as provided for under paragraph (e)(ii).

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 92^{bis}

(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 92^{bis}

Recording of Changes in Certain Indications in the Request or the Demand

92^{bis}.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 shall also mean photographic reproductions of records, copies, and files, whatever may be the form of such reproductions (microfilms or other).

Rule 94

Furnishing of Copies by the International Bureau and the International Preliminary Examining Authority

94.1 *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.

PATENT COOPERATION TREATY

SCHEDULE OF FEES

SCHEDULE OF FEES

Fees	Amounts
1. Basic Fee: (Rule 15.2(a))	
(a) if the international application contains not more than 30 sheets	762 Swiss francs
(b) in the international application contains more than 30 sheets	762 Swiss francs plus 14 Swiss francs for each sheet in excess of 30 sheets
2. Designation Fee: (Rule 15.2(a))	
(a) for designations made under Rule 4.9(a)	185 Swiss francs per designation, provided that any designation made under Rule 4.9(a) in excess of shall not require the payment of a designation
(b) for designations made under Rule 4.9(b) and confirmed under Rule 4.9(c)	185 Swiss francs per designation
3. Confirmation Fee: (Rule 15.5(a))	50% of the sum of the designation fees payable under
4. Handling Fee: (Rule 57.2(a))	233 Swiss francs

MANUAL OF PATENT EXAMINING PROCEDURE

PCT INDEX—LEGEND

PCT INDEX—LEGEND

Acronym/Term	Meaning
Art.	Patent Cooperation Treaty Article
A.I.	Patent Cooperation Treaty Administrative Instruction
CFR	U.S. Code of Federal Regulations
DO	Designated Office
EO	Elected Office
HC	Home Copy of International Application
IA	International Application
IB	International Bureau
IPE	International Preliminary Examination
IPEA	International Preliminary Examining Authority
IPER	International Preliminary Examination Report
Ipub	International Publication
IS	International Search
ISA	International Searching Authority
ISR	International Search Report
PCT	Patent Cooperation Treaty
PD	Priority Date of Earlier Filed National Application
RC	Record Copy of International Application
RO	Receiving Office
Rule	Patent Cooperation Treaty Rule
SC	Search Copy of International Application
USC	United States Code
USPTO	United States Patent and Trademark Office

PATENT COOPERATION TREATY

PCT INDEX

A

Abandonment of IA as to USPTO	37 CFR 1.494(g) 37 CFR 1.495(h)	Agent—Con. Right of agent to practice before international authorities
Abbreviated expressions used in IA		Amendment Copy of amendment under Article 19 for IPEA .. Copy of amendment under Article 19 sent (communicated) to DO
Meaning of	A.I. 101 37 CFR 1.401	Rule Definition of, before IPEA
Codes/Indications	A.I. 115	Form of, before IPEA
Abstract	Rule 8	Language of, before IPEA
Amendment by ISA in response to applicant's comments	A.I. 515	Processing of Article 19 amendment by IB
Missing or defective	Rule 38	Processing of by IPEA
U.S. Rule regarding	37 CFR 1.438	Of abstract by ISA
Absence of quorum in assembly, voting	Rule 25	Of claims, description, and drawing before DO ..
Additional (new) matter in request, deletion of	A.I. 303	Of claims before IB
Addresses of applicants, inventors and agents ...	Rule 4.4	Of claims before IPEA
Administrative instructions – scope, source, entry into force	Rule 89	Of claims before the elected Office
Administrative provisions of the PCT		Of claims Numbering and identification in amendment ..
Assembly	Art. 53	Of description before IPEA
Committee for technical cooperation	Art. 56	Of description before elected Office
Executive committee	Art. 54	Of drawing before elected Office
Finances	Art. 57	Of drawing before IPEA
International bureau	Art. 55	Of certain PCT provisions
Regulations	Art. 58	See also Revision of PCT
Agent		Of PCT regulations
See also Common representative		Sheet(s) — processing of by receiving Office ..
See also Representative		Applicant Different applicants for different designated states ..
“Applicant” encompasses the term “agent” in certain situations	Rule 2.1	Entitled to make a demand
Appointment of	Rule 90.1	First named used to identify international application
Changes, recording of by IB	Rule 93 ^{bis} .1	Improper, in U.S. national stage
In general	Rule 2.2 Rule 4.7 Rule 90	In general
Indications concerning,		Recording by IB of changes regarding applicant ..R
In demand	Rule 53.2 Rule 53.5	
In request	Art. 4 Rule 4.1 Rule 4.7	
National law requirements	Art. 27 Rule 51 ^{bis} .1b	
Notice of change of agent sent to IB	A.I. 328	
Notice of change of agent sent from IB to ISA and IPEA	A.I. 425	
Notice of change of agent sent from ISA to IB ..	A.I. 512	
Notice of change of agent sent from IPEA to IB ..	A.I. 608	

MANUAL OF PATENT EXAMINING PROCEDURE

PCT INDEX

Applicant—Con.
 U.S. regulation regarding 37 CFR 1.421
 Application - *See also* International application
 Assembly of PCT contracting states Art 53
 Executive committee established by Art. 54
 Assignment
 Of IA, possible requirement to furnish to a
 national Office Rule 51^{bis}.1
 Recording by USPTO if U.S. is a designated
 country in the IA 37 CFR 1.331(a)
 Authorized officer Rule 43,8
 Rule 70.14
 A.I. 514
 A.I. 612
 Availability of translation of IA to IB Rule 95

B

Biological invention, *See also*
 Microbiological invention
 Nucleotide or amino acid sequence listing
 Sequence listing

C

Calendar (Gregorian to express dates) Rule 79
See also Dates
 Changes in person, name or address of applicants
 and inventors (U.S. requirements) 37 CFR 1.472
 Check list (In request)
 Re documents filed with IA Rule 3.3
 Necessary annotations by RO A.I. 313
 Citations (proper) of documents in the ISR A.I. 503
 Claims
 Amendment before EO Art. 41
 Amendment before IB Art. 19
 Rule 46
 Amendment before IPEA Art. 34
 Rule 66.4
 Rule 66.8
 In general Art. 6
 Rule 6
 Numbering and identification upon amendment .. A.I. 205
 United States regulation regarding 37 CFR 1.436
 Classification of IA subject matter A.I. 504
 Committee established by assembly of states Art. 56
 Common representative Rule 2.2^{bis}
 Rule 90.2
 Change of A.I. 106
 Notice of change sent from RO to IB A.I. 328
 Notice of change sent from IB to RO,
 ISA, & IPEA A.I. 425

Common representative—Con.
 Notice of change sent by ISA to IB A.I. 512
 Notice of change sent by IPEA to IB A.I. 608
 Communication
 From IB, of IA, ISR, or any Article 17(2)(a)
 determination and indication that no search
 will be established, to each DO Art. 20
 Rule 47
 Communication transmitted electronically A.I. 114
 Competent international preliminary examining
 authority Rule 59
 Competent international searching authority Art. 16
 Rule 35
 Competent receiving Office Art. 11(1)(i)
 Rule 19
 Confidential nature
 Of IA Art. 30
 Of IPE Art. 38
 Confirmation copy of facsimile transmission
 (N/A in US) Rule 92.4
 A.I. 331
 Confirmation by RO of designation
 necessary annotations by RO Rule 4.9(b)
 Rule 4.9(c)
 A.I. 315
 Continuation or continuation-in-part, IA treated
 as in any designated state Rule 4.4
 Copies
 In general, by IB or IPEA, upon request Rule 94
 Making home copy and search copy from
 original IA (record copy) by RO Rule 21
 Identifying RC, SC, and HC by RO A.I. 305
 Correction of request by RO *ex officio* A.I. 327
 Corrections and amendments during international
 processing. Rule 26.4
 Rule 46
 37 CFR 1.471
 Correspondence
 For applicant, to whom sent A.I. 108
 In general Rule 92

D

Dates (using Gregorian calendar) Rule 75
 Format of, in IA A.I. 110
 Deadlines (*See also* Time limit)
 Applicable to Applicants
 (1) Before the RO
 After which applicant can request RO to certify
 copy of IA as identical with IA as filed and
 applicant can send certified copy to IB
 (14 months from PD) Rule 22.1

PATENT COOPERATION TREATY

PCT INDEX

Deadlines (*See also* Time limit)—Con.

To correct Article 14(1) defects in IA . . . Art. 14(1)b
(e.g., IA is not properly signed, does not
contain proper indications re applicant,
has no title, has no abstract, does not
comply with physical requirements
in Rule 11) Rule 26.2

Extensions of time available Rule 26.2

*Sanction: RO declares IA withdrawn
under Rule 29*

To correct defects under Article 11 to
obtain an international filing date . . . Art. 11(2)
Rule 20.6

*Sanctions: International filing date given IA
when Article 11(1) defect is corrected in
time set by RO; but RO declares IA
withdrawn if not corrected within time set.*

To provide missing drawings (30 days) . . . Art. 14(2)
Rule 26.2
37 CFR 1.437

Extensions of time available Rule 26.2
Sanction: Drawings considered nonexistent

To pay deficiencies in transmittal fee
(Rule 14), international basic fee
(Rule 15.1(i)), search fee (Rule 16),
late payment fee (Rule 16^{bis}.2) Art. 14(3)
Rule 16^{bis}.1
37 CFR 1.431

Extension of time - One month set by RO
when RO finds deficiency Rule 16^{bis}.1
*Sanction: RO declares IA withdrawn
under Rule 29.*

To pay deficiencies in the transmittal fee,
basic fee (incl. suppl. for over 30 pages)
or search fee when RO finds discrepancies
before fees are due A.I. 304(b)

To pay deficiencies in designation fees . . . Art. 14(3)
Rule 26.2
37 CFR 1.432

Extensions of time available Rule 26.2
Sanction: Appropriate designations withdrawn

To pay deficiencies in designation fees when
RO finds discrepancies before fees are
due A.I. 304(b)
Rule 30

(2) Before the ISA

To amend claims under Article 19 before IB
within two months of date of transmittal
of ISR to IB, or 16 months from priority
date Rule 46.1

Deadlines (*See also* Time limit)—Con.

To amend claims under Article 19 - latest
of 2 months from date ISR sent to IB
and Applicant or 16 months from PD
or if amendment reaches IB before
completion of technical preparations
for international publication R

To submit priority document, unless
already filed with RO together with IA,
to IB or RO not later than 16 months
after PD, or where DO processes IA at
any time on express request of
applicant (Art. 23(2)), not later than
date processing or examination is
requested R

Where lack of unity of invention is held,
time limit of between 15 and 45 days
set to pay additional fees to have
additional inventions searched Ar
R
37 CF

(3) Before the IPEA

To amend claims, description, or drawings
under Article 34 before the IPE
37 CF

To amend claims, description, or
drawings under Article 34 before the
IPEA at time of filing demand or, subject
Rule 66.4^{bis}, until IPER is established . . . R
Rule

To correct defects in demand upon
invitation within a time limit not less
than 1 month and which may be
extended by IPEA before a decision
is made R

To correct later elections not complying
with Rule 56 within a time limit not
less than 1 month and which may be
extended by IPEA before a decision
is made R

To provide translation of priority
document upon invitation by IPEA
within 2 months of invitation date . . . R

To respond (including Article 34
amendments) to a written opinion
within time set therein (not less
than 1 month) R

MANUAL OF PATENT EXAMINING PROCEDURE

PCT INDEX

Deadlines (See also Time limit)—Con.

- Rule 66.2 permits response time set in written opinion to be from 1 month to 3 months (plus extensions) Rule 66.2
- 37 CFR 1.484 permits response time set in written opinion to be from 1 to 2 months with no extensions possible 37 CFR 1.484
- Where lack of unity of invention is held by IPEA, time limit of between 1 and 2 months set to pay additional fees to have additional inventions searched Art. 34(3) Rule 68.2 37 CFR 1.488
- When filing a demand for IPE, must pay handling fee at time demand filed or within the 1 month deadline set when IPEA invites applicant to pay the fee Rule 57
Sanction: IPEA considers IA withdrawn
- When seeking IPE, preliminary examination fee must be paid at time demand filed or within the 1 month deadline set when IPEA invites applicant to pay the fee Rule 58.2
Sanction: IPEA considers IA withdrawn
- (4) Before the DO/EO
 - To enter the national stage under 35 USC 371 where U.S.A. is DO . 37 CFR 1.494
 - To enter the National Stage under 35 USC 371 where the U.S.A. is EO 37 CFR 1.495
 - To amend claims, description, or drawing under Article 28 before the DO Rule 52
 - For amendment of claims, description, or drawings before EO (varies) Rule 78
- Applicable to the RO
 - For RO to check certain elements (request is signed, has indications re applicant, has an abstract, meets physical requirements of Rule 11) of IA Rule 26.1
 - For RO to transmit record copy to IB (normally 13 months or earlier, unless failure to obtain national security clearance obtained) Rule 22
 - For RO to transmit search copy to ISA Rule 23

Deadlines (See also Time limit)—Con.

- Applicable to the IB
 - IB shall promptly notify each EO of receipt and date of receipt, of any later election, and will be sent along with the Article 20 communication (of the IA, ISR, Article 19 amendments), if possible Rule 61.2
 - For IB to notify applicant, RO, ISA (unless it declined to be notified) and DO (if it asked to be notified) of fact and date receipt of record copy of IA . Rule 24
 - International publication of IA promptly after expiration of 18 months from PD, unless earlier publication requested under Articles 21(2)(b) and 64(3)(c)(i) . Art. 21 Rule 48
- Applicable to the ISA
 - For ISA to establish the ISR (or declaration that the subject matter is not required to be searched or is unsearchable as per Article 17(2)) - the later of 3 months from date of receipt of SC by ISA or 9 months from priority date Rule 42
- Applicable to the IPEA
 - For IPEA to establish the IPEP (28 months from PD if demand was filed prior to expiration of 19 months from PD; or 9 months from start of IPE if demand filed after expiration of 19 months from PD Rule 69.2
 - For IPEA to start IPE (may start as early as international search but no later than 20 months from PD) Rule 69.1
 - IPEA shall promptly notify applicant of receipt of the demand Rule 61.1
- Deceased inventor (U.S. Rule) 37 CFR 1.422
- Defects
 - Correction
 - Processing by IB A.I. 413
 - Of indications re applicant's residence or nationality A.I. 329
 - Of request, *ex officio*, by RO A.I. 327
 - Of obvious defects, by RO A.I. 325
 - IA held withdrawn because of failure to correct certain defects Rule 29.1

MANUAL OF PATENT EXAMINING PROCEDURE

PCT INDEX

Drawing(s)—Con.
 Flowsheets and diagrams considered as Rule 7.1
 In general Art. 7
 Rule 7
 Invitation by RO to correct informal drawings ... Rule 26
 Missing - RO procedure concerning A.I. 310
 Time set to file where not necessary to
 understanding of invention Rule 7.2
 Referred to, but not included in IA Art. 14(2)
 United States regulation regarding 37 CFR 1.437

E

Elected Office
 Notification to IB of number of applications
 filed after national stage deadline A.I. 112
 United States as 37 CFR 1.414
 Election(s)
 Cancellation of *ex officio* by IB A.I. 423(b)
 Cancellation of *ex officio* by IPEA A.I. 606
 Later than demand Rule 56
 Defects in later elections Rule 60.2
 Not considered made
 Notification by IB to EO A.I. 418
 Indication of in demand by IPEA A.I. 606^{bis}
 Errors
 By RO or IB, rectification of Rule 82^{ter}
 Correction of obvious
Ex officio by RO A.I. 325
 A.I. 327
 Processing by IB A.I. 413
 Authorization of by IPEA A.I. 607
 In documents Rule 91
 In request, *ex officio*, by RO A.I.
 327
Ex Officio correction of request by RO A.I. 327
 Expenses of delegations Rule 84
 Expressions and language, not to be used Rule 9
See also Language prohibited
 Correction of A.I. 501
 Extension of time (one month) to pay basic fee,
 search fee, designation fee, and transmittal
 fee - under Rules 14, 15, and 16 Rule 16^{bis}

F

Fee(s)
 Additional fees per invention where lack of
 unity is found by
 ISA Art. 17(3)
 Rule 40

Fee(s)—Con.
 IPEA Art. 34(3)
 Rule 68
 Application of money received by RO in certain
 cases A.I. 321
 Associated with request
 Transmittal fee Rule 14
 United States rule 37 CFR 1.445(a)(1)
 PCT search fee Rule 16
 No prior U.S.
 application 37 CFR 1.445 (a)(2)(i)
 Prior U.S. national
 application 37 CFR 1.445 (a)(2)(ii)
 International fee Rule 15
 Basic fee (first thirty pages) Rule 15
 Basic supplemental fee (per page over 30)... Rule 15
 Designation fee per country (maximum fee
 is ten times single country designation
 fee) Rule 96
 37 CFR 1.496(a)(3)
 United States regulation regarding 37 CFR 1.445
 (Where lack of unity of invention held by
 ISA, there is a fee for each additional
 claimed invention) Art. 17(3)
 Rule 40
 Associated with demand
 Handling fee Rule 57
 (Where lack of unity of invention held
 by IPEA, there is a fee for each
 additional claimed invention) Art. 34(3)
 Rule 68
 Preliminary examination fee Rule 58
 ISA was U.S. 37 CFR 1.482(a)(2)
 ISA was not U.S. 37 CFR 1.482(a)(3)
 United States regulation regarding 37 CFR 1.482
 Confirmation of precautionary
 designation fee Rule 4.9(c)
 Rule 15.5
 Rule 96
 37 CFR 1.445(a)(4)
 Designation fee Rule 15
 Calculation for national and regional
 patents A.I. 210
 Extension of time to pay Rule 16^{bis}
 U.S. regulation regarding payment of ... 37 CFR 1.432
 Extension of time (one month) to pay basic fee,
 search fee, designation fee, and transmittal
 fee - under Rules 14, 15, and 16 Rule 16^{bis}
 Handling fee (re demand) Rule 57

PATENT COOPERATION TREATY

PCT INDEX

Fee(s)—Con.

IA filing, processing, and search fees.
 U.S. regulation 37 CFR 1.445
 International fee (basic and designation) Rule 15
 International search fee Rule 16
 37 CFR 1.445(a)(2)
 Invitation by RO to pay before date due A.I. 304
 Invitation by RO to request search fee refund. .. A.I. 322
 Invitation to pay fees A.I. 320
 Invitation to request refund of fees before
 IPEA A.I. 613
 Lack of payment of Rule 27
 Late payment fee re basic fee, search fee,
 designation fee, and transmittal
 fee - under Rules 14, 15, and 16 Rule 16^{bis}.2
 National stage fee to DO Art. 22
 U.S. statute regarding 35 USC 376
 U.S. regulation regarding 37 CFR 1.492
 National stage fee to EO Art. 39
 U.S. statute regarding 35 USC 376
 U.S. regulation regarding 37 CFR 1.492
 Preliminary examination fee Rule 58
 Refund of IA filing and processing fees Rule 15.6
 Rule 16.2
 Rule 40.2(c)
 United States regulation regarding 37 CFR 1.446
 Schedule of fees Rule 9⁶
 Special fees for publication, payable to the IB .. A.I. 113
 Surcharge for filing oath or declaration later
 than 20 months from PD under 37 CFR 1.494(c)
 or later than 30 months from PD under
 37 CFR 1.495(c) 37 CFR 1.492(e)
 Transmittal fee Rule 14
 37 CFR 1.445(a)(1)
 File (IA) reference (IA docket no. of applicant) ... A.I. 109
 On IA sheets Rule 11.6(f)
 Filing date
 Certificate of US Postal Service
 Express Mail Rule 20.1
 37 CFR 1.10
 Of IA Art. 11
 35 USC 363
 35 USC 371
 35 USC 102(e)
 37 CFR 1.496
 Finances (budget) of union of PCT states Art. 57
 Flowsheets, considered as drawings Rule 7.1
 Form(s)
 Computer generated A.I. 102 (h) & (i)
 Request Rule 3.7

Form(s)—Con.

Demand Rule
 PCT A.I. A
 PCT, use of
 G
 Gazette, PCT
 A.I. Annexes 1
 Free copies of, to ISA, IPEA, national Office
 H
 Handling fee for IPE (re demand)
 Home copy of IA, preparation of
 I
 Identification
 Of designated Office
 Of elected Office
 Of IA having two or more applicants
 Of IA file (docket reference by applicant)
 Of international authorities
 Indications (two letter codes identifying countries
 and other entities)
 Industrial applicability A
 A
 Rule
 R
 Intellectual property protected under PCT
 International application
 Arrangement of contents/elements
 Availability of, to DO
 Certain defects in
 Checking by RO and correcting parts of
 before RO
 Communicated (sent) to each DO by IB
 Confidential nature of IA
 Considered withdrawn
 Translation of IA sent by applicant to DO
 Copy of IA sent from IB to IPEA
 Copy, translation and national fee to EO
 Effect of IA designation of U.S 35 U
 Filing date and effects of
 In general
 International publication number of



تقتل زوجة القاتلة أجبره

حملات أمنية مكثفة لضبط المتطرفين بالقاهرة

شهدت مناطق القاهرة حملات أمنية مكثفة لضبط العناصر الإرهابية الهاربة والخارجين القنويين. أسفرت الحملات في يوم الأول عن نتائج ايجابية ولازمت القوات التي شاركت في الحملة تواصل مهامها في مختلف المناطق العشوائية بمنطقة عين شمس والاسكندرية وبعض مناطق وسط القاهرة وضواحيها. تسارعت الحملات التي بدأت في ساعلة مبنية من صباح أمس وحداد تنقلية من قوات الشرطة والأمن المركزي ومباحث أمن الدولة ومباحث القاهرة والأمن العام والبروز. ومن المقرر ان تتمد الحملات لتشمل قطاعات شرق وغرب وشمال وجنوب القاهرة وتستمر عدة أيام.

كشورى يحاول تهريب الأقمشة والمركبات المضروبة.

كتب - كامل عمران :
ضبطت جملة مطر للقاهرة للراكب القوي في تلخ هو. لقاء محاولته تهريب كمية كبيرة من الأقمشة المضروبة والمركبات المضروبة. كان الراكب وصل على الطائرة القوية القادمة من سيول ضمن طوع سباحي. وحاول الدخول من الخط الأخضر مع الفرج. والذات نيكه الاجراءات الجمركية اشبه فيه لحد موظفي الجمارك. تم العثور مع الراكب على ٢٦٠ كيلو من الأقمشة المضروبة المستخرجة في صنع اريطة الصق. و٢ كيلو جرامات من العملات التجارية الأجنبية. و٧ كيلو جرامات من خيوط النيلون. وأحيل الراكب الى النيابة للمتحقيق معه.



الشرائط المضبوطة



اللواء العوانى

ضبط ٢٨٤٧ شريط كاسيت عن الفتنسة والتسطرف «العوانى» يطالب بتشديد العقوبة لمروجى وطابعى الشرائط

كتب - محمد عبدالفتاح :

الشرائط لخطورتها على الشباب واعلن ضبط ٢٠٨ قضيا خلال الشهر الحال. شملت ٧٩ الفا و٥٩٧ شريط كاسيت وفيميو. منها ١٥ الفا و١٦٨ شريط كاسيت منسوخة لمشاهير المغازين. و١٣٣ شريط فيديو مخلة بالآداب بالخطير الخيرية وطوخ وتم ضبط ١٠٩٢ ديسك كمبيوتر منسوخة بشركتين بمصر الجديدة. و٩٠ شبوتة. تستخدم في عمليات الطباعة كما تم ضبط احدى المكتبات بالعباسية تقوم بنسخ وتقليد الكتب والمحاضرات الخاصة باستاذة الجامعة. احييت القضايا والمضبوطات الى النيابة وتولت التحقيق.

تم ضبط ٢٨٤٧ شريط كاسيت تعرض على الفتنة وتشجع الارهاب. شملت شرائط للشيخ محمد حسان والمكثور عمر عبدالرحمن. وعمر عبدالكامل. اكد اللواء سامي العوانى مدير الادارة العامة للمصنفات الفنية. اهللة مروجى الشرائط الى النيابة. وأشار الى ان تحرير المضبوطات وتاريخ محتوياتها. وأشار الى ان الادارة تعمل على جمع كل الشرائط التي تشجع على الارهاب والفتنة خاصة وانها ساعدت على تجنيد الارهابيين المتورطين في حادث اغتيال المكثور عاطف صدقي. وتلاميذ مروجيها الى المحكمة. وطلب امس العوانى في مؤتمر صحفي بتشديد العقوبة لطابعى ومروجى هذه

ضبط اختتام الموزارات والمحافظات مع اخطر موزور بمنطقة عابدين

كتب - احمد راضى :

الفت الادارة العامة لمباحث الاموال العامة القبض على اخطر موزور تخصص في صناعة الاختام الحكومية وبيعها للمزورين بكميات باهظة تم ضبط ٢٨ خاتم شاهر الجمهورية بوتر المزور بمنطقة عابدين. واحيل الى النيابة لتقول التحقيق. كانت معلومات سرية قد وردت الى اللواء عبدالهادى بدوى مساعد وزير الداخلية لمباحث الاموال العامة. بقبلمه المزور يسرى نسولى حسن ببيع الاختام الحكومية المزورة لصغار المزورين. تم تشكيل فريق بحث اشرف عليه اللواءان حسنى الدين نائب المدير وفاروق عيسى مدير ادارة التزييف والتزوير. تم اعداد عدة اكمنة على الاسكن الذي يتروء عليها المزور. تمكن الرائدان شريف عبدالجديد ومحمد حسن من القبض عليه. تم استئذان النيابة وبنتيش الوكر الذي يتروء عليه تم ضبط ٢٨ ختما خصا برئاسة الجمهورية ووزارات الدفاع والداخلية والصحة ومحافظات القاهرة والجيزة وبعض الاختام الخاصة بمف. التصديقت. اعترف المتهم بقبلمه ببيع الختم المزور بالك جنيه.

كتب داير

الاسكندرية - السيد سميد :
امر محمد سامى مدير نيابة الجوارث بحبس موظف ضبط بحوزته قطعة مخدرات وكان الرائد اشرف عبدالقادر الذى القبض على فرح حسن وبحوزته قطعة كبيرة من الحشيش بعد ان ارتكب فيه اقرار المتهم امام النيابة كنه عريس جديد. ولم يعض على زواجه غير اسبوع. وكانت قطعة الحشيش مدية من الاصداء بمناسبة الزفاف.
امر بسبوتى عبدالحكيم مدير نيابة اشدان بحبس فران لاتجاره في المخدرات وكان اللواء محمد عبدالفتاح عمر مدير امن القليوبية قد تلقى معلومات بقبلم المتهم سلطان عبدالله ٣١٠ سنة.

Sequestration of 2847 tapes incite extremism and religious conflict

"Al Awani" calls for increasing penalties against those who sell and copy such tapes

A variety of 2847 tapes incite and encourage terrorism including records of Shlekh Mohamed Hassan , Dr, Omar Abdull Rahman and Omar Abdul KafI were sequestered," a police general, the Director of the General Administration of the Artistic Classification, said.

He added that the sellers of those tapes were sent to the public prosecutor and the contents of the sequestered items were examined. The police general asserted that his administration is seeking to collect all tapes which encourage violence and religious seduction, especially such tapes that had generated the mobilization process of terrorists who were entangled in the assassination attempt on Dr. Atief Sidky.

In a Press conference held yesterday, Al Awani called for increasing penalties against those who copy and sell such tapes due to their dangerous effect on youth. He also declared that 308 infringing cases were referred to the court during this current month, including 79,597 video cassettes and tapes out of 15,468 were copied tapes for famous singers, as well as 3,933 video cassettes incite immoral acts, 1092 copied computer discs in two firms at Heliopolis, in addition to 90 articles and materials which are used in the copying process. He also said that one of the bookshop in Cairo was copying and imitating books and lectures of the university professors, as all cases, confiscated items and materials have been referred to the court.

Appendix H

POLICE RAID PIRATE OF PIRATED TAPES

MANUAL OF PATENT EXAMINING PROCEDURE

PCT INDEX

International application—Con.

Language of Rule 12
 Numbering - three sets: one for request, another
 for description, and a third for drawings A.I. 207
 Physical requirements of Rule 11
 37 CFR 1.433
 Purported IA, notification of receipt of,
 by RO A.I. 301
 Requirements, U.S. regulation
 regarding 37 CFR 1.431
 Numbering system of IA. A.I. 307
 Marking each sheet of IA with A.I. 308
 Copy of notification of IA number and IA
 filing and priority date(s) sent to IB .. A.I. 324
 Sheet numbering (separate sets for request,
 description, and drawings) A.I. 207
 For international publication A.I. 410
 Sheet(s)
 Cancellation, substitution, addition,
 renumbering by RO A.I. 311
 Transmittal of IA to IB and ISA Art. 12
 Treated as continuation or continuation-in-part . Rule 4.14
 Withdrawn IA, U.S. statute regarding 35 USC 366
International Bureau (IB)
 In general Art. 55
 Patent information services provided by Art. 50
 U.S. regulation regarding 37 CFR 1.415
International fee Rule 15
International preliminary examination
 Conduct of, in United States 37 CFR 1.484
 Confidential nature of Art. 38
 Copy, translation and fee for, furnished to
 elected Office Art. 39
 Delay to enter national stage Art. 39(1)(a)
 Demand for Art. 31
 Withdrawal of Art. 37
 In general Art. 33
 IPEA Art. 32
 IPER Art. 35
 Rule 70
 Communication of IPER Rule 73
 Guidelines for explanations in A.I. 604
 Method of identifying documents cited in A.I. 611
 Start of, and time limit for Rule 69
 Transmittal, translation, and communication
 of IPER to applicant and IB Art. 36
 Rule 71
 Translation of Rule 72
 Translation of annexes and transmittal Rule 74

International preliminary examination—Con.

Inventive step Rule 65
 Art. 33(3)
 Prior art for Rule 64
 Use of same file for ISA and IPEA A.I. 604
 Written opinion by IPEA Art. 34
 Rule 66
 Amendment of claims, description, and
 drawing under Article 34 in response to Art. 34
International preliminary examination authority
 Competent IPEA Rule 59
 In general Art. 32
 Lack of unity determination Rule 68
 Minimum requirements for Rule 63
 Nonexamined subject matter Rule 67
 Notification by IPEA of date of receipt of demand
 and of election to IB and applicant Rule 61.1
 Procedure before Art. 34
 Rule 66
 United States statute regarding 35 USC 362
 United States regulation regarding 37 CFR 1.416
International publication
 By IB of IA Art. 21
 Rule 48
 Copies of publications to ISA, IPEA,
 national offices Rule 87
 Effect of, in United States 35 USC 374
 Number A.I. 404
 Of IA, effects of Art. 29
 Publication number (WO _____) A.I. 404
 United States statute regarding 35 USC 362
 United States regulation regarding 37 CFR 1.413
International search Art. 15
 Time limit for accomplishing Rule 42
International search authority Art. 16
 Competent Rule 35
 Minimum requirements Rule 36
 Procedure before Art. 17
International search fee Rule 16
International search report
 Communicated (sent) from IB to DO Art. 20
 Rule 47
 Copy of IA provided by IB for ISA A.I. 420
 Indication of citations of relevance in A.I. 505
 Indications of specific categories of documents
 cited in A.I. 507
 Indication of claims to which documents are
 relevant A.I. 508
 In general Art. 18

PATENT COOPERATION TREATY

PCT INDEX

International search report—Con.
 Method of Identifying documents cited in A.I. 503
 Subject matter not required to be searched Rule 39
 Time limit for establishing Rule 42
 Transmittal of, from ISA to IB Rule 44
 Translation of ISR Rule 45
 International-type search Rule 41.1
 Inventive step Rule 65
 Art. 33(3)

Inventions
 Protection available under PCT Art. 43
 Art. 44
 A.I. 202
 Indications of kinds of protection Rule 4.12

Inventor(s)
 Correction of Rule 92^{bis}
 Deceased 37 CFR 1.422
 Filing of IA designating US by someone
 other than the inventor(s) 37 CFR 1.425
 Incapacitated or insane 37 CFR 1.423
 Joint 37 CFR 1.424

L

Lack of unity of invention
 Examples A.I. Annex B
 In international preliminary examination Rule 68
 37 CFR 1.488
 37 CFR 1.489
 In international search Rule 40
 37 CFR 1.475
 37 CFR 1.476
 37 CFR 1.477
 In national stage 37 CFR 1.499
 Unity of invention in IA, in general Rule 13
 Examples A.I. Annex B

Language
 Of correspondence by applicant to IB and RO ... A.I. 104
 Of demand for IPE Rule 55
 Of forms used by international authorities A.I. 103
 Of IA Art. 11(1)(ii)
 Rule 12
 Of international publication of IA Rule 48.3
 Of IPE Rule 72
 Of ISA Rule 43.4
 Of translation of IA Rule 49.2
 Prohibited expressions Rule 9
 Correction of A.I. 501

Later elections (elections submitted after
 the demand)
 Defects in Rule 60.2

Later elections (elections submitted after
 the demand)—Con.
 In general
 Publication of notice of later elections by IB
 in Gazette
 Later indication of priority application number
 by RO to IB
 Later submitted sheets, RO procedure
 Loss of effect of IA in designated states
 (Same consequences as withdrawal of IA)

M

Mail service
 Irregularities in
 Microbiological inventions
 See also Nucleotide/amino acid sequence
 listings
 Micro-organisms
 Deposited
 Indications as to
 Minimum documentation in ISA
 Missing drawings, RO procedure

N

National Office
 Right to practice before

National stage
 Amendment of claims, description, and
 drawings before designated offices
 Before elected offices

Certain national requirements allowed under
 Article 27(1),(2),(6),(7)

Copy of IA, translation and fee to DO
 Delaying of national examination and other
 processing

Protection available
 Other than patent protection
 As well as patent protection
 Requirements
 Results of national examination in different
 countries

MANUAL OF PATENT EXAMINING PROCEDURE

PCT INDEX

P

National stage—Con.

United States

- Commencement in 35 USC 371
- Entering U.S. as designated Office 37 CFR 1.494
- Entering U.S. as elected Office 37 CFR 1.495
- Entry into U.S., time of 37 CFR 1.491
- Examination in 37 CFR 1.496
- Improper applicant 35 USC 373
- National U.S. patent issued on IA, effect ... 35 USC 375

- National security prescriptions Art. 27(8)
- Delay or prevention of transmittal of record
copy to IB A.I. 330

Nationality

- Qualifications Rule 18.2
- In demand Rule 54.1
- Recording of changes to by the IB Rule 92^{bis}.1

- Nationality or residence of applicant,
correction of A.I. 329
A.I. 614

New (additional) matter

- In request, deletion of *ex officio* A.I. 303

- Nomenclature - *See also* Terminology and signs Rule 10

- Notification by IPEA of date of receipt of
demand to IB and applicant Rule 61

- Nucleotide and/or amino acid sequence listings .. Rule 13^{ter}
- Transmitted by RO to ISA A.I. 313(c)

- Number and numbering of claims Rule 6.1

- Number of (accorded to) IA Rule 20.1

- Number of copies of IA to be filed Rule 11.1

- Numbering of amendments Rule 6.1
A.I. 20S
A.I. 207
A.I. 311

- Numbering of lines on a page of IA Rule 11.8

- Numbering of sheets of IA Rule 11.7

- Numbering of sheets for international publication ... A.I. 410

O

- Oath or declaration in U.S. national stage
application 35 USC 371(c)(4)
37 CFR 1.497

- Obvious errors in documents Rule 91
- Rectification of A.I. 511

- Obviousness/nonobviousness Art. 33(3)
Rule 65

See also Inventive step

- Opportunity to correct IA before designated Office . Art. 26

- Pamphlets (form of publishing the IA) Rule 48

Patent Cooperation Treaty

- Administrative provisions Arts. 53 - 58

- Amendment of certain provisions Art. 61

- Assembly of contracting states Art. 53

- Becoming a party to Art. 62

- Committee for technical cooperation Art. 56

- Denunciation Art. 66

- Depositary functions Art. 68

- Disputes Art. 59

- Entry into force of PCT Art. 63

- Executive committee of assembly Art. 54

- Final provisions (becoming party to treaty, entry
into force of treaty, reservations, gradual
application, denunciation, signature and
languages, depositary functions, notifications) .. Art. 62

- Finances Art. 57

- Gradual application of PCT in a state Art. 65

- International Bureau Art. 55

- Notifications to states/governments re PCT issues . Art. 69

- Reservations by any state re Application of PCT
provisions Art. 64

- Revision of PCT Art. 60

- Patent information services furnished by IB Art. 50

- Physical requirements of IA Rule 11

Power of attorney

- Definition Rule 3.3a

- In general Rule 90.5

Practice before international authorities

- Right to do so Art. 49
Rule 83
Rule 90

- Precautionary designations Rule 4.9(b)

- Rule 4.9(c)

- Fees for Rule 15.5

- Form (optional) for making precautionary
designations PCT/DO
Form 144

- Preliminary examination fee Rule 58

Prior art

- Citation of (proper method) A.I. 503

- For international preliminary examination Rule 64

- Indications A.I. 505

- Of special categories of documents A.I. 507

- Relevant to international search Rule 33.1

- Priority application serial number A.I. 408

- Later indication of A.I. 319

PATENT COOPERATION TREATY

PCT INDEX

Priority claim in IA Rule 4.10
 Correction or cancellation by RO A.I. 314
 Correction or cancellation by IB A.I. 402
 Not considered to have been made A.I. 302
 Notice to that effect by IB, if not by RO A.I. 409
 U.S. regulation regarding 37 CFR 1.451
 Withdrawal of, by applicant Rule 90^{bis}.3
 Priority, right of (in U.S.) 35 USC 365
 Benefit of filing date of a prior application 35 USC 365
 Priority document Rule 17
 Benefit of filing date of a prior application 35 USC 365
 Copy, translation, and fee furnished to EO
 under Article 39(1) Rule 76
 Fee for certified copy of, from
 U.S. PTO 37 CFR 1.19(b)(1)
 In proceedings before IPEA Rule 66.7
 Invitation by IB to furnish A.I. 421
 Receipt of by IB A.I. 411
 Translation and time limit to furnish to EO Rule 76
 Transmittal by RO to IB A.I. 323
 U.S. regulation regarding 37 CFR 1.451
 Protection available under PCT Art. 43
 Art. 44
 Art. 45
 A.I. 202
 Indications of kinds of protection in request ... Rule 4.12
 Protest against payment of additional fees
 re holding of lack of unity Rule 68
 Rule 40
 A.I. 403
 A.I. 502
 Before United States IPEA 37 CFR 1.489
 Before United States ISA 37 CFR 1.477
 Publication - See International publication

Q

Quorum, absence of
 Voting by correspondence Rule 85

R

Receipt of IA by RO Rule 20
 Notification of by RO to IB Rule 20.5(b)
 Notification of by RO to applicant A.I. 301
 Receiving Office
 In general Art. 10
 Competent Rule 19
 United States RO 35 USC 361
 37 CFR 1.412

Record copy (originally filed IA)
 Definition Rule
 Transmittal to IB by RO 37 CI
 Receipt by IB
 Marking sheets of, by IB
 Rectification of obvious errors
 Authorized or not by the ISA
 Authorized by IPEA
 Handling of, by RO
 Limitations/restrictions on Rule
 to
 Refund
 If search is based in part on earlier search
 Invitation by RO to request search fee refund
 Invitation to request refund of fees
 before IPEA
 Of handling fee
 Of international fee
 Of international preliminary examination fee ..
 Of international search fee
 Regional patent treaties
 Regulations of the PCT
 Representation/representative
 See also Common representative
 Appointment of
 Notice by IB to ISA and IPEA
 Notice by IPEA to IB
 Notice by ISA to IB
 Notice by RO to IB
 Common (definition) Ru
 General power of attorney
 Limited recognition in patent cases ... 37 CFR Part
 Revocation and renunciation of representative ...
 U.S. regulation regarding 37 CI
 Request (Part of IA)
 Contents
 Deletion of additional material
 Form
 In general
 Recording of changes in, by IB R
 Notification by IB
 Request (Part of IA)—Continued
 Rectification of, including limitations on
 ability to rectify 1
 U.S. regulation regarding 37 CI
 Residence
 Corrections to
 Invitation by RO

PATENT COOPERATION TREATY

PCT INDEX

Time limit—Con.

For correction by applicant of certain defects
 found by and invited by RO to correct Rule 26.2

For establishing the international search Rule 42

For establishing the IPE Rule 69.2

For paying national fee and furnishing translation
 before DO pursuant to Article 25(2)(a) so
 DO can review adverse holding by RO
 or IB Rule 51.3

For presenting request by applicant for IB to
 send copies of IA to DO after receiving
 determination that IA is withdrawn Rule 51

For start of, and establishment of, IPE Rule 69

For submitting priority document Rule 17

For translation of priority document before EO . Rule 76.4

For transmittal by applicant of translation of
 any replacement sheet referred to in Rule
 70.16 that is attached to the IPER Rule 74.1

In general Art. 47

Meaning of term "Time Limit" in Article 48(2) . Rule 82^{bis}

Modification of time limit fixed in PCT Rule 81

Of application processing based on priority
 date Rule 4.10
 37 CFR 1.465

Tuning of IA processing based on priority
 date 37 CFR 1.465

To confirm precautionary designations Rule 4.9

To furnish drawings which are not necessary for
 the understanding of the invention Art. 7.2
 Rule 7.2

To furnish IA copy translation, and fee to DO
 beyond time limit allowed by Article 22 Rule 50

To pay fees before ISA in response to a holding
 of lack of unity of invention Rule 40.3

To request review by DO of failure to accord
 international filing date Art. 25

Utility models Rule 6.5

Title of invention in IA

Content Rule 4.3

Missing or defective Rule 37

Translation

Availability of translations Rule 95

By applicant, international search based on Art. 15

Defective/incorrect of IA Art. 46

Draft, of IA, prepared by ISA for publication,
 comments on by applicant A.I. 506

Of certain words not in Latin alphabet,
 in request Rule 4.16

Of IA, availability to IB Rule 95

Of IA, transmittal by IB to designated offices Art. 22

Translation—Con.

Of IA, transmittal by IB to elected offices

Of international preliminary examination report

Of international preliminary examination report
 Of IPER annexes, and transmittal of to elected
 offices by applicant

Of international publication, affecting protection
 of rights in any designated state

Of international search report

Of priority document before EO

Transmittal

Fee

Of record copy to IB by RO 37 C

Of search copy to ISA by RO

Delayed

Treaty - See also Patent Cooperation Treaty, above

U

Unity of invention

During U.S. national stage 37 C

Examples and guidelines A.I.

In general 37 C

Lack of unity before IPEA 37 C

Lack of unity before ISA 37 C

Compliance with Rule 13

Transmittal of protest to pay fees for additional
 claimed inventions

Transmittal by IB

Transmittal by IPEA

Transmittal by ISA

W

WO - See also International publication number

Withdrawals (by applicant), in general R

Of demand or election Ru

Withdrawn

Application, U.S. statute regarding 35

Determination by RO re IA or designation

MANUAL OF PATENT EXAMINING PROCEDURE

PCT INDEX

Withdrawn

Decision by RO not to hold withdrawn after
notifying applicant of intent to so hold A.I. 312
Notification to IPEA by IB A.I. 414
Review of by designated Office Art. 25
Rule 51
Determination by IB under Article 12(3)

Withdrawn—Con.

Review by designated Office Art. 25
Rule 51
Written opinion by IPEA Art. 34
Rule 66
Amendment of claims, description, and drawing
under Article 34 in response to Art. 34
.....