

WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

**SPECIAL UNION FOR THE INTERNATIONAL CLASSIFICATION OF GOODS AND
SERVICES FOR THE PURPOSES OF THE REGISTRATION OF MARKS
(NICE UNION)**

AD HOC WORKING GROUP

**Second session
Geneva, October 6, 2008**

**DRAFT REVISED RULES OF PROCEDURE OF
THE COMMITTEE OF EXPERTS OF THE NICE UNION**

prepared by the Secretariat

1. The Annex to this document reproduces draft revised Rules of Procedure for the Committee of Experts of the Nice Union, submitted by the International Bureau for consideration at the second session of the *ad hoc* Working Group, in accordance with the decision taken at its first session, held in Geneva, on July 3 and 4, 2008 (see paragraph 8(b)(v) of the Summary by the Chair, document CLIM/WG/1/3).
2. The changes to the Rules of Procedure proposed in the Annex to this document are indicated in track changes mode.
3. The Committee of Experts adopted the Rules of Procedure on September 10, 1973, and amended them on May 28, 1982, November 10, 1995, October 11, 2000, and, the most recent, on October 9, 2003.
4. *The ad hoc Working Group is invited to consider this document and to express its views thereon.*

[Annex follows]

ANNEX

RULES OF PROCEDURE
OF THE COMMITTEE OF EXPERTS OF THE NICE UNION

(Article 3(4) of the Nice Agreement (Geneva Act))

adopted by the Committee of Experts on September 10, 1973,
and amended on May 28, 1982, November 10, 1995, October 11, 2000,
October 9, 2003 and [....]

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Rule 1: Application of the General Rules of Procedure

The Rules of Procedure of the Committee of Experts of the Nice Union (hereinafter referred to as the “Committee of Experts”) and of the subcommittees and working groups established by it shall consist of the General Rules of Procedure of WIPO, supplemented and amended by the provisions of Articles 3 and 4 of the Nice Agreement (Geneva Act) and by the provisions set forth hereinafter.

Rule 2: Representation and Expenses of Delegations and Representatives

- (1) Each delegate may represent one State only.
- (2) The expenses of each delegation or representative shall be borne by the Government or the Organization which appointed it.

Rule 3: Sessions

(1) The Committee of Experts shall meet in regular sessions at least once every year, on convocation by the Director General.

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(2) The Committee of Experts shall meet in extraordinary session on convocation by the Director General at the request of one-fourth of the States members of the Committee of Experts.

(3) Subcommittees and working groups established by the Committee of Experts shall meet at such times and at such places as may be determined by the Committee of Experts or by the Director General in consultation with the Chairman of the subcommittee or working group concerned.

Rule 4: Subcommittees and Working Groups

(1) When establishing any subcommittee or working group, the Committee of Experts shall determine its terms of reference and the frequency of its sessions.

(2) The members of a subcommittee or working group established by the Committee of Experts shall be all member States of the Nice Union that have informed the Director General in writing of their wish to become members of such subcommittee or working group.

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(3) Observer status in a subcommittee or working group established by the Committee of Experts shall be afforded to

(i) States party to the Paris Convention for the Protection of Industrial Property or members of WIPO that have informed the Director General in writing of their wish to acquire such status in such subcommittee or working group,

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(ii) the African Intellectual Property Organization, the African Regional Intellectual Property Organization, the Benelux Organization for Intellectual Property and the European Community, and

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(iii) any other intergovernmental organization which has a regional office for the purposes of registering marks or is specialized in the field of marks, of which at least one of the member States is a country of the Nice Union, and has informed the Director General in writing of its wish to acquire such status in such subcommittee or working group.

Rule 5: Status of Certain Intergovernmental Organizations in the Committee of Experts

Article 3(2)(b) of the Nice Agreement (Geneva Act) shall apply to the following intergovernmental organizations:

African Intellectual Property Organization
African Regional Intellectual Property Organization
Benelux Organization for Intellectual Property
European Community.

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Rule 6: Officers

(1) The Committee of Experts shall elect a Chair and two Vice-Chairs.

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(2) Any subcommittee or working group established by the Committee of Experts shall elect a Chair and one Vice-Chair.

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(3) Any outgoing Chair or Acting Chair may be immediately re-elected to the office which he has held.

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(4) Where the Chair or Acting Chair is the only member of the delegation of a member State, he may vote in his capacity of delegate.

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(5) Representatives of the intergovernmental organizations referred to in Rule 5 may be elected as officers of the Committee of Experts or of any subcommittee or working group established by the Committee of Experts.

Rule 7: Adoption of Amendments and Other Changes to the Nice Classification

(1) Except in special cases, the Committee of Experts shall adopt amendments to the Nice Classification at the end of specified revision periods; the length of each period shall be determined by the Committee of Experts.

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(2) The Committee of Experts shall adopt any other change to the Nice Classification at its yearly sessions. Change shall mean any change to the class headings, the explanatory notes or the alphabetical list that does not constitute an amendment in the sense of Article 3(7)(b) of the Nice Agreement.

(3) The Committee of Experts shall endeavor to reach its decisions by consensus.

Rule 8: Publication of the Report

The report on the work of each session of the Committee of Experts, or a summary drawn up by the International Bureau, shall be published in the review *WIPO Magazine* or on the WIPO Web site on the Internet.

Explanatory Notes

Note 01: *Rule 5.* The proposed amendment to this Rule consists of adding the African Regional Intellectual Property Organization (ARIPO) and the European Community (EC) to the two organizations already mentioned in that Rule as having observer status in the Committee of Experts. Both newly added organizations, namely ARIPO and the European Community, are intergovernmental organizations specialized in the field of marks, of which at least one of the member States is a member of the Nice Union. Both ARIPO and the EC have competence for the registration of marks and maintain regional offices to that effect. If Rule 5 were to be adopted, the consequence of adding these two organizations would be that they could submit proposals for changes in the Classification in accordance with Article 3(5) of the Nice Agreement and that their representatives could be elected as officers of the Committee of Experts or of any subcommittee or working group established by the Committee of Experts in accordance with Rule 6(5) of the Rules of Procedure. The second amendment to this Rule concerns the change of the designation “Benelux Trademark Office” to “Benelux Organization for Intellectual Property”, which reflects the coming into force, on September 1, 2006, of this Organization, thereby entering into all the rights and obligations of the former Benelux Trademark Office and Benelux Designs Office.

Note 02: *Rule 4(1)(3)(ii)*. The proposed amendment is consequential to the proposed amendment to Rule 5.

Note 03: *Rule 7(2)*. Under this provision, the Committee of Experts would adopt changes to the Nice Classification that do not constitute a transfer of goods or services from one class to another or the creation of any new class in yearly intervals. Adoption of amendments will continue to take place at the end of specified revision periods, the length of which will be determined by the Committee of Experts. The entry into force of changes and amendments remains to be governed by Article 4 of the Nice Agreement. In accordance with that provision, amendments to the Nice Classification enter into force six months after the date of dispatch of the notification. Any other change enters into force on a date to be specified by the Committee of Experts at the time the change is adopted.

Note 04: *Rule 7(3)*. Article 3(7)(a) and (b) of the Nice Agreement provides for the adoption of decisions by the Committee of Experts by a majority vote. However, in order to obtain the largest possible convergence among members in the outcome of the decision-making process and to align that process with the one that is generally applied, in practice, in the bodies of the World Intellectual Property Organization, it is proposed that the Committee of Experts, likewise, endeavor to reach its decisions by consensus.

[End of Annex and of document]