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THE LANGUAGE REGIME UNDER THE MADRID SYSTEM

Document prepared by the International Bureau

I. INTRODUCTION

1. At its first session, the *ad hoc* Working Group on the Legal Development of the Madrid System for the International Registration of Marks (hereinafter referred to as "the Working Group") recommended, in the context of the review of Article 9*sexies* of the Madrid Protocol (hereinafter referred to as "the safeguard clause") the amendment of the Common Regulations under the Madrid Agreement Concerning the International Registration of Marks and the Protocol Relating to that Agreement (hereinafter referred to as "the Common Regulations", "the Agreement" and "the Protocol"), "so as to provide for the trilingual regime in the mutual relationships between States bound by both the Agreement and the Protocol" (see documents MM/LD/WG/1/3, paragraph 98, and MM/A/36/1, paragraph 14).

2. At its 36th session (September-October 2005), the Assembly of the Madrid Union noted the recommendation of the Working Group and invited the Director General to convene a further session of the Working Group to, *inter alia*, consider draft amendments to the Common Regulations to give effect to the above-mentioned recommendation (see documents MM/A/36/3, paragraph 15, and MM/A/36/1, paragraph 18).

3. It is recalled that the rules governing the languages which may or must be used for the filing of international applications and all subsequent operations under the Agreement and the Protocol (hereinafter referred to as "the language regime") are not laid down in the treaties themselves, but in their implementing regulations.

4. Prior to the implementation of the Protocol, the Madrid system (that is, at the time, the Agreement) was operated in French only.

5. Following the entry into force of the Protocol, new implementing regulations, common to the Agreement and the Protocol (the Common Regulations), were adopted with effect from April 1, 1996, the date of implementation of the Protocol. While maintaining French as the sole language for all operations involving the Agreement only, the Common Regulations introduced English as an additional language for operations involving the Protocol.

6. Thus, Rule 6 of the Common Regulations provided for a dual language regime, depending on whether the international application was governed exclusively by the Agreement or was (exclusively or partly) governed by the Protocol[1]. In the latter case, the international application could be filed in either English or French, all communications relating thereto, or to the resulting international registration, could be in English or French, and all recordings in the International Register, as well as all publications in the official *WIPO Gazette of International Marks* concerning the said international registration, were in both English and French.

7. Rule 6 also provided for a bridge between the monolingual (French) regime and the bilingual (English and French) regime: when, as a result of a subsequent designation under the Protocol, the Protocol became applicable to an international registration resulting from an international application governed exclusively by the Agreement, the bilingual regime became applicable to that international registration.

8. At its 35th session (September-October 2003), the Assembly of the Madrid Union amended Rule 6 of the Common Regulations, with effect from April 1, 2004, in order to introduce Spanish as a third language for new international applications governed at least in part by the Protocol, and for the international registrations resulting therefrom.

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[1] Under Rule 1 [*Abbreviated Expressions*] of the Common Regulations as it currently stands, an international application is:

– governed exclusively by the Agreement if it originates from a State bound by the Agreement but not by the Protocol, or if it originates from a State bound by both treaties and designates only States all of which are bound by the Agreement, whether or not (by virtue of the safeguard clause) they are also bound by the Protocol;

– governed exclusively by the Protocol if it originates from a Contracting Party bound by the Protocol but not by the Agreement, or if it originates from a State bound by both treaties and does not designate any State bound by the Agreement;

– governed by both treaties if it originates from a State bound by both treaties and designates at least one State bound by the Agreement (whether or not that State is also bound by the Protocol), and at least one State bound by the Protocol but not by the Agreement, or a Contracting Organization.

9. With effect from the same date, a transitional provision was added to the Common Regulations (Rule 40(4)), the purpose of which was to maintain the bilingual regime for international registrations that, prior to April 1, 2004, fell under that regime, until such time as those international registrations became the subject of a new subsequent designation under the Protocol; thereupon, the trilingual (English, French and Spanish) regime would apply.

10. The resulting, current language regime of the Madrid system can therefore be summarized as follows:

(a) Where an international application is governed exclusively by the Agreement, it must be filed in French, the international registration is recorded and published in French only, all communications relating to the international application or the international registration (including the notification of the international registration to the designated States, notifications of refusal, requests for the recording of changes, etc.) must be in French, and all subsequent recordings in the International Register and related publications are effected in French only.

(b) Where an international application is governed in whole or in part by the Protocol, it may be filed in English, French or Spanish, depending on the language or languages that the Office of origin may allow, the international registration is recorded and published in all three languages, all communications relating to the international application or the international registration that are addressed to the International Bureau may be sent, at the option of the sender, in any of the three languages, and all subsequent recordings in the International Register and related publications are effected in all three languages.

(c) Where the international registration resulting from an international application governed exclusively by the Agreement is the subject of a first subsequent designation under the Protocol (which presupposes that the Contracting Party of the holder is party to the Protocol), the subsequent designation may be filed in English, French or Spanish, it is recorded and published in all three languages and the whole international registration is translated into English and Spanish and republished in all three languages. Thereafter, the trilingual regime described in subparagraph (b) applies[2].

(d) International registrations which, under the Common Regulations as in force before April 1, 2004, were subject to the then applicable bilingual (English and French) regime, remain subject to that regime until such time as a subsequent designation under the Protocol is made (on or after April 1, 2004). That subsequent designation may be filed in English, French or Spanish, it is recorded and published in all three languages and the whole international registration is translated into Spanish and republished in all three languages. Thereafter, the trilingual regime described in subparagraph (b) applies.

(e) Where the trilingual regime applies, Contracting Parties, as well as holders of international registrations, may always specify one of the three languages as the language in which they wish to receive all communications from the International Bureau. In the absence of instructions, the International Bureau sends all communications in the language in which the relevant international application was received by the International Bureau.

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[2] It is to be noted that the switch from the monolingual to the trilingual regime is definitive, even though the subsequent designation may be refused, or subsequently renounced, or not renewed.

11. The current language regime of the Madrid system is therefore governed by three basic principles, namely:

(i) Where the Agreement alone applies, the monolingual regime takes effect.

(ii) Where the Protocol applies *ab initio* (alone or alongside the Agreement), the trilingual regime takes effect.

(iii) A change to the trilingual regime takes place only as a result of a subsequent designation under the Protocol.

II. CONSEQUENCES OF THE REPEAL OF THE SAFEGUARD CLAUSE, OR OF A RESTRICTION OF ITS SCOPE, ON THE USE OF LANGUAGES UNDER THE MADRID SYSTEM

Repeal or Restriction

12. The consequences of the repeal of the safeguard clause, or of a restriction of its scope, on the use of languages under the Madrid system, were outlined in document MM/LD/WG/1/2 submitted to the Working Group at its first session (see paragraphs 101 to 105 of that document). It should be noted, however, that those consequences would not be the result of any change in the current language regime *per se*, but would merely follow repeal, or restriction, of the safeguard clause, as a matter of course.

13. Thus, should the safeguard clause be repealed, the designation of a State bound by both the Agreement and the Protocol in an international application whose Office of origin is also bound by both treaties, would be governed by the Protocol. This would have to be reflected in the Common Regulations, in particular by amendment of items (viii) to (x) of Rule 1 thereof, containing the definitions of what constitutes an application governed exclusively by the Agreement, exclusively by the Protocol, or by both the Agreement and the Protocol[3].

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[3] Rule 1, as amended, could possibly read as follows:

Rule 1
Abbreviated Expressions

For the purposes of these Regulations,

[…]

(viii) "international application governed exclusively by the Agreement" means an international application whose Office of origin is the Office

- of a State bound by the Agreement **only** ~~but not by the Protocol~~, or
- of a State bound by both the Agreement and the Protocol**,** where ~~all the~~ **only** States **are** designated in the international application **and all the designated States** are bound by the Agreement **only;** ~~(whether or not those States are also bound by the Protocol);~~

[Footnote continued on next page]

14. As a result, an international application whose Office of origin is the Office of a State bound by both the Agreement and the Protocol and which designates only States, all of which are bound by the Agreement, would become governed (at least in part) by the Protocol, where at least one of the designated States is also bound by the Protocol. Consequently, under Rule 6 of the Common Regulations, as it currently stands, the trilingual regime would apply.

15. As far as restriction of the scope of the safeguard clause is concerned, it is recalled that on the occasion of its first session, and pending the outcome of the continuing discussions on the review of the safeguard clause, the Working Group recommended that the safeguard clause be restricted with respect to the following four features (see paragraphs 50 to 59 of document MM/A/36/1):

- the required basis for filing an international application,
- the cascade,
- the presentation to the International Bureau of subsequent designations and certain other requests, and
- transformation.

16. With regard to the required basis for filing an international application, and the cascade, a restriction of the scope of the safeguard clause would entail directly the same consequences, including the amendment of Rule 1 of the Common Regulations, as those which would result from a repeal of the safeguard clause, as outlined in paragraphs 13 and 14, above.

[Footnote continued from previous page]

(ix) "international application governed exclusively by the Protocol" means an international application whose Office of origin is the Office
- of a State bound by the Protocol **only** ~~but not by the Agreement~~, or
- of a Contracting Organization, or
- of a State bound by both the Agreement and the Protocol**,** where the international application does not contain the designation of any State bound by the Agreement **only**;

(x) "international application governed by both the Agreement and the Protocol" means an international application whose Office of origin is the Office of a State bound by both the Agreement and the Protocol and which is based on a registration and contains the designations
- of at least one State bound by the Agreement **only** ~~(whether or not that State is also bound by the Protocol)~~, and
- of at least one State bound by the Protocol ~~but not~~**, whether or not that State is also bound** by the Agreement**,** or of at least one Contracting Organization;

17. In conclusion, therefore, either the repeal of the safeguard clause, *or* a restriction of its scope along the lines indicated in paragraph 15, above, would require the same amendment of Rule 1 of the Common Regulations, automatically entailing (without the need for any additional modification of Rule 6 of the Common Regulations and without changing the language regime, as such) an extension of the trilingual regime to international applications whose Office of origin is the Office of a State bound by both the Agreement and the Protocol and which designate only States, all of which are bound by the Agreement, provided that at least one of the latter States is bound also by the Protocol.

18. The date of implementation of the new trilingual regime would require to be decided in the context of the outcome of the review of the safeguard clause. However, its implementation would not be envisaged until there has been an opportunity to allocate resources for that purpose, which will come with the adoption of the budget for the 2008-2009 biennium.

Transitional Provisions

19. As regards Rule 40(4) *[Transitional Provisions Concerning Languages]* it has been mentioned above that its purpose was to maintain the bilingual (English and French) regime (until such time as a new subsequent designation under the Protocol occurred) for all international registrations that, prior to April 1, 2004, fell under that regime, namely, (i) all international registrations resulting from an international application governed in whole or in part by the Protocol the request for presentation of which was received, or deemed to have been received, by the Office of origin before April 1, 2004, and (ii) all international registrations resulting from an international application governed exclusively by the Agreement that had been the subject of a subsequent designation under the Protocol before April 1, 2004.

20. It follows from the first sentence of Rule 40(4) that all international registrations resulting from an international application governed (in whole or in part) by the Protocol and bearing a date later than March 31, 2004, fall under the trilingual regime; it follows from its second sentence that all international registrations bearing a date earlier than April 1, 2004, that were, on or after that date, the subject of a subsequent designation under the Protocol have moved to the trilingual regime. There would not therefore be need for further specific transitional provisions regarding languages as a result of the repeal of the safeguard clause or a restriction of its scope.

Operational Implications

21. From an operational and financial perspective, the main consequence for the International Bureau of the extended application of the trilingual language regime of the Madrid system as a result of a repeal or restriction of the safeguard clause, as described above, would be that a larger number of translations would be required of international registrations, and communications relating thereto, than is the case today.

22. An estimate of the number of additional translations that can be expected to be required can be obtained on the basis of the statistics for the year 2005. If the safeguard clause had not been in effect in 2005, of the 33,169 international registrations recorded in that year, a total of 32,994 would have been subject to the trilingual language regime. This means that translations would have had to have been effected for 6,480 more international registrations than the 26,514 that were actually recorded in English, French and Spanish in the course of 2005. To these should be added 2,619 of the 3,424 international registrations which, in 2005, were the subject of a subsequent designation governed by the Agreement only but which would have been governed by the Protocol if the safeguard clause had not applied in 2005, and which were not yet available in all three languages (1,298 only in French and 1,321 in French and English).

23. Consequently, the total number of *additional* international registrations that would have been subject to the trilingual regime would have amounted to 9,099, of which 7,778 would have required translations of international registrations into English and Spanish, while a further 1,321 would have had to have been translated only into Spanish.

24. Therefore, compared to the actual number of translations effected for the year 2005, an additional number of 16,877 translations would have had to have been effected. Based on the experience of the International Bureau in recent years, one translator is expected to translate, on average, a total of 3,000 international registrations (plus a proportionate number of other communications) per year. As a result, 5.6 additional translators would have been required.

III. POSSIBLE REVIEW OF THE LANGUAGE REGIME UNDER THE MADRID SYSTEM

Trilingual regime in mutual relationships between States bound by both treaties, or full trilingual regime

25. As already noted, the natural consequences of a repeal, or a restriction, of the safeguard clause would be such that no amendment of the Common Regulations would be required in order *specifically* to give effect to the trilingual regime in the mutual relationships between States bound by both the Agreement and the Protocol.

26. In such situation, given the small number of Contracting Parties that remain bound only by the Agreement[4], the number of international applications which would remain subject to the monolingual regime would be extremely limited. These would consist of applications

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[4] At the end of 2005, eleven Contracting Parties: Algeria, Azerbaijan, Bosnia and Herzegovina, Egypt, Kazakhstan, Liberia, San Marino, Sudan, Tajikistan, Uzbekistan and Viet Nam.

originating from States bound only by the Agreement[5], or originating from States bound by both the Agreement and the Protocol that designate only States bound exclusively by the Agreement[6]. All the remaining international applications, and the resulting international registrations, would fall under the trilingual regime.

27. Additionally, virtually all subsequent designations made in respect of international registrations that are not yet subject to the trilingual regime would trigger the application of the trilingual regime[7].

28. In effect, if the safeguard clause were to be repealed or restricted, the situations where the Agreement alone would continue to apply would become comparatively rare. To maintain, under Rule 6, a specific (monolingual) regime for those situations, would perhaps seem to be unwarranted.

29. On the other hand, one could, without any further significant cost implications, open the trilingual regime to *all* new international applications, that is, also to international applications governed exclusively by the Agreement.

30. Similarly, given the small number of subsequent designations made in respect of international registrations, not yet subject to the trilingual regime, that would not be designations under the Protocol, one could also decide that *any* new subsequent designation (and not solely subsequent designations governed by the Protocol) would trigger the change from the monolingual, or the bilingual, to the trilingual regime.

31. It should be underlined that the move to a full trilingual regime would not immediately concern those existing international registrations that have been recorded and published in French alone, or in both French and English[8]. Those international registrations would not require translation and would remain subject to the monolingual (French) regime, or the bilingual (French and English) regime, unless and until such time as they became subject to a new subsequent designation. Thus, providing for a full trilingual regime would be a gradual and progressive process.

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[5] In 2005, out of a total of 33,169 international registrations, 114 resulted from such an international application.

[6] In 2005, out of a total of 33,169 international registrations, 61 resulted from such an international application.

[7] Based on the statistics for 2005, out of a total of 10,227 such requests, 6 originated from States bound only by the Agreement, and 331 originated from States bound by both the Agreement and the Protocol and were in respect of States bound exclusively by the Agreement.

[8] At the end of 2005, out of 454,400 international registrations in force, 307,500 had been recorded and published in French only, and 106,500 in English and French.

Advantages of full trilingual regime

32. As far as new applications, communications and recordings are concerned, full expansion of the trilingual regime would result in substantial simplification of the overall language regime of the Madrid system.

33. It would be of benefit to Offices of Contracting States bound either by the Agreement alone, or, in certain cases, by both treaties, as it would give them the choice between all three languages for communications with the International Bureau in respect of international registrations that, under the Common Regulations as they currently stand, would have been governed exclusively by the Agreement. It would also considerably simplify the task of those Offices of certain States party to both treaties, since they would no longer be required to monitor two different language regimes for international applications or (over the course of a year) for notifications of refusal.

34. As far as users are concerned, regardless of whether a country is bound by the Agreement only, the Protocol only, or by both treaties, users would have the choice of language for communications (directly) with the International Bureau.

35. A full extension to the trilingual regime would also be of benefit to third parties by improving access to the International Register, since all new entries in the Register would be published and made available in all three languages.

36. Having said that, extension of the trilingual regime would not affect the right of Offices to restrict the choice of the filing language to any one, or two, of the three languages, nor their right to decide on the language in which they wished to receive communications from the International Bureau.

Introduction of full trilingual regime in conjunction with repeal or a restriction of the safeguard clause

37. If a decision were taken by the Assembly of the Madrid Union to expand the language regime to all new international applications and to provide that any subsequent designation would trigger a change from the monolingual or the bilingual to the trilingual regime, then the additional implications of such a decision would be minimal if it were taken along with a decision to repeal, or restrict the scope of the safeguard clause.

Proposal

38. It is therefore proposed that one single language regime (the trilingual regime) apply to all new international applications and the resulting international registrations. For the purposes of the language regime, the distinction between international applications and subsequent designations governed exclusively by the Agreement or governed by the Protocol would disappear. In effect, the three languages of the Madrid system would be placed on an equal footing for all new international applications and the resulting international registrations.

39. To this end, draft amendments to the Common Regulations have been drawn up by the International Bureau and are set out in the annex to this document. The draft amendments are commented upon in the following paragraphs and in the notes that follow.

40. If Rule 6 of the Common Regulations were amended as proposed, an additional transitional provision would be required for the purposes of maintaining the monolingual regime for those international registrations resulting from international applications governed exclusively by the Agreement that have been filed between April 1, 2004, and the day before the date of entry into force of Rule 6 as revised, inclusively, and have not been the subject of a subsequent designation under the Protocol in that period (see the annex to this document and the notes on Rule 40(4) below).

41. As already noted, the proposed amendments are based on the premise that, as suggested by the International Bureau at the first session of the Working Group (see document MM/LD/WG/1/2, paragraph 104), international registrations that have been published only in French or only in English and French should remain subject to the monolingual (French) regime or the bilingual (English and French) regime until such time as they are the subject of a (new) subsequent designation (be it a subsequent designation under the Protocol or any subsequent designation).

42. Finally, it is to be noted that, as mentioned above, the proposed new wording of Rule 6 would no longer contain any reference to international applications governed exclusively by the Agreement, exclusively by the Protocol or by both treaties.

IV. NOTES ON THE PROPOSED AMENDMENTS

43. In the Annex to this document, proposed additions to the current texts are shown in bold and proposed deletions are struck through. Explanatory notes are provided below.

Notes on Rule 6

44. All references to international applications governed exclusively by the Agreement, exclusively by the Protocol or by both the Agreement and the Protocol have disappeared, since there would henceforth be one single (trilingual) language regime for all international applications and, subject to the transitional provisions referred to below, all international registrations.

45. The changes in items (iii) and (iv) of paragraph (2) (former subparagraph (2)(b)) are of a purely editorial nature. They are suggested for the sake of clarity or for syntactical reasons.

46. In paragraph (3)(b) (former (3)(c)), the words "under previous versions of this Rule" have been added merely to clarify, for future readers, why international registrations may have been published only in French or only in English and French. In the same paragraph, the last sentence of former paragraph (3)(c) has been deleted as unnecessary because the change to the trilingual regime of the international registrations concerned will result from the transitional provisions referred to below.

Notes on Rule 40(4)

47. As already mentioned, as a consequence of the proposed amendments to Rule 6, an additional transitional provision would be required for the purposes of maintaining the monolingual regime for international registrations resulting from international applications governed exclusively by the Agreement filed between April 1, 2004, and the day before the date of entry into force of Rule 40(4) as amended, inclusively, to the extent of course that such international registrations have not, in the meantime, moved to the trilingual regime as a result of a subsequent designation under the Protocol.

48. Besides, whereas under Rule 6 as it currently stands, only subsequent designations made under the Protocol trigger a change to the trilingual regime, under Rule 6 as proposed to be amended *any* subsequent designation would trigger that change. As a result, Rule 40(4) had to be restructured and substantially reworded for the sake of clarity.

49. The date of entry into force of Rule 40(4) as amended, will need to be decided in the context of the outcome of the review of the safeguard clause, and in the light of the first opportunity to allocate resources for the purpose of its implementation, which will come with the adoption of the budget for the 2008-2009 biennium.

Note on Rule 9

50. The proposed amendment to Rule 9(4)(b)(iii) is also consequent on the proposed amendments to Rule 6 since, under the latter, any international application could be filed in any of the three languages (irrespective of the treaty or treaties governing it). It is believed that the proposed amendment is self explanatory.

51. The Working Group is invited to comment on the above, to consider the draft amendments to the Common Regulations proposed in this document, and to formulate its recommendations for submission to the Assembly of the Madrid Union.

[Annex follows]

ANNEX

PROPOSED CHANGES TO THE COMMON REGULATIONS

Rule 6
Languages

(1) *[International Application]* ~~(a)~~ ~~An~~ **The** international application ~~governed exclusively by the Agreement shall be in French.~~

~~(b) An international application governed exclusively by the Protocol or governed by both the Agreement and the Protocol~~ shall be in English, French or Spanish according to what is prescribed by the Office of origin, it being understood that the Office of origin may allow applicants to choose between English, French and Spanish.

(2) *[Communications Other Than the International Application]* ~~(a)~~ Any communication concerning an international application ~~governed exclusively by the Agreement or the international registration resulting therefrom shall, subject to Rule 17(2)(v) and (3), be in French, except that, where the international registration resulting from an international application governed exclusively by the Agreement is or has been the subject of a subsequent designation under the Protocol, the provisions of subparagraph (b) shall apply.~~

~~(b) Any communication concerning an international application governed exclusively by the Protocol or governed by both the Agreement and the Protocol,~~ or ~~the~~ **an** international registration ~~resulting therefrom,~~ shall, subject to Rule 17(2)(v) and (3), be

(i) in English, French or Spanish where such communication is addressed to the International Bureau by the applicant or holder, or by an Office;

(ii) in the language applicable under Rule 7(2) where the communication consists of the declaration of intention to use the mark annexed to the international application under Rule 9(5)(f) or to the subsequent designation under Rule 24(3)(b)(i);

(iii) in the language of the international application where the communication is a notification addressed by the International Bureau to an Office, unless that Office has notified the International Bureau that ~~any~~ **all** such notifications are to be in English, **or are to be** in French or **are to be** in Spanish; where the notification addressed by the International Bureau concerns the recording in the International Register of an international registration, the notification shall indicate the language in which the relevant international application was received by the International Bureau;

(iv) in the language of the international application where the communication is a notification addressed by the International Bureau to the applicant or holder, unless that applicant or holder has expressed the wish that all such notifications ~~are to~~ be in English, or **be** in French or **be** in Spanish.

(3) *[Recording and Publication]* (a) ~~Where the international application is governed exclusively by the Agreement, the recording in the International Register and the publication in the Gazette of the international registration resulting therefrom and of any data to be both recorded and published under these Regulations in respect of that international registration shall be in French.~~

~~(b) Where the international application is governed exclusively by the Protocol or is governed by both the Agreement and the Protocol, t~~**T**he recording in the International Register and the publication in the Gazette of the international registration ~~resulting therefrom~~ and of any data to be both recorded and published under these Regulations in respect of ~~that~~ **the** international registration shall be in English, French and Spanish. The recording and publication of the international registration shall indicate the language in which the international application was received by the International Bureau.

~~(c)~~**(b)** Where a first subsequent designation is made ~~under the Protocol~~ in respect of an international registration that**, under previous versions of this Rule,** has been published only in French, or only in English and French, the International Bureau shall, together with the publication in the Gazette of that subsequent designation, either publish the international registration in English and Spanish and republish the international registration in French, or publish the international registration in Spanish and republish it in English and French, as the case may be. That subsequent designation shall be recorded in the International Register in English, French and Spanish. ~~Thereafter, the recording in the International Register and the publication in the Gazette of any data to be both recorded and published under these Regulations in respect of the international registration concerned shall be in English, French and Spanish.~~

(4) *[Translation]* (a) The translations needed for the notifications under paragraph (2)~~(b)~~(iii) and (iv), and recordings and publications under paragraph (3)~~(b) and (c)~~, shall be made by the International Bureau. The applicant or the holder, as the case may be, may annex to the international application, or to a request for the recording of a subsequent designation or of a change, a proposed translation of any text matter contained in the international application or the request. If the proposed translation is not considered by the International Bureau to be correct, it shall be corrected by the International Bureau after having invited the applicant or the holder to make, within one month from the invitation, observations on the proposed corrections.

(b) Notwithstanding subparagraph (a), the International Bureau shall not translate the mark. Where, in accordance with Rule 9(4)(b)(iii) or Rule 24(3)(c), the applicant or the holder gives a translation or translations of the mark, the International Bureau shall not check the correctness of any such translations.

Rule 40
Entry into Force; Transitional Provisions

[…]

(4) *[Transitional Provisions Concerning Languages]* **(a)** Rule 6 as in force before April 1, 2004 shall continue to apply to any international application **filed** ~~which was received, or in accordance with Rule 11(1)(a) or (c) is deemed to have been received, by the Office of origin~~ before that date **and to any international application governed exclusively by the Agreement filed between that date and […], inclusively,** ~~to any international registration resulting therefrom and~~ to any communication relating thereto **and to any communication, recording in the International Register or publication in the Gazette relating to the international registration resulting therefrom**~~.Rule 6 as in force before April 1, 2004 shall cease to apply where a subsequent designation under the Protocol is filed directly with the International Bureau or is filed with the Office of the Contracting Party of the holder on or after that date, provided that the subsequent designation is recorded in the International Register.~~**, unless**

(i) the international registration has been the subject of a subsequent designation under the Protocol between [April 1, 2004] and […]; or

(ii) the international registration is the subject of a subsequent designation on or after […]; and

(iii) the subsequent designation is recorded in the International Register.

(b) For the purposes of this paragraph, an international application is deemed to be filed on the date on which the request to present the international application to the International Bureau is received, or deemed to have been received under Rule 11(1)(a) or (c), by the Office of origin, and an international registration is deemed to be the subject of a subsequent designation on the date on which the subsequent designation is presented to the International Bureau, if it is presented directly by the holder, or on the date on which the request for presentation of the subsequent designation is filed with the Office of the Contracting Party of the holder if it is presented through the latter.

Rule 9
Requirements Concerning the International Application

(b) The international application may also contain,

[…]

(iii) where the mark consists of or contains a word or words that can be translated, a translation of that word or those words into ~~French if the international application is governed exclusively by the Agreement, or into~~ English, French and~~/or~~ Spanish ~~if the international application is governed exclusively by the Protocol or is governed by both the Agreement and the Protocol~~**, or in any one or two of those languages**;

[…]

[End of Annex and of document]