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DRAFT REVISED TRADEMARK LAW TREATY (TLT)

prepared by the Secretariat

INTRODUCTION

1. The annex to this document contains the text of the draft revised Trademark Law Treaty (TLT), which is essentially based on the deliberations of the thirteenth session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) that took place in October 2004.

2. At that session, the SCT discussed the entire text of the draft for a revised TLT and its revised Regulations with a view to finalizing, at its fourteenth session, the work on the basic proposal for the revised TLT. As regards Articles 1 to 3, 5, 8, 10 to 14, 17 to 20, 22, 24, 26, 29 and 30, changes that have been introduced in respect of the previous draft as it appeared in document SCT/13/2, are highlighted in the present document (i.e., omissions by strikethrough and additions by underlining). Changes introduced to the text of the TLT adopted in 1994, which were not yet considered by the SCT concerning Article 3, are highlighted in the same manner. Changes to the text on which the SCT had reached agreement in previous sessions are no longer highlighted. The draft of the revised Regulations and International Model Forms is presented in document SCT/14/3.

3. Particular attention is drawn to the fact that, at the occasion of its thirty-first session, the WIPO General Assembly decided to approve the convening of a Diplomatic Conference for the Adoption of a Revised Trademark Law Treaty (TLT), in Geneva, from March 13 to 31, 2006, and to hold two additional sessions of the SCT and a preparatory meeting in order to conclude the preparatory work for that Diplomatic Conference (see document WO/GA/31/15, paragraph 73). It should be noted that the first of the two SCT sessions mentioned was held in October 2004. The fourteenth session is, therefore, the final session before the Diplomatic Conference.

4. The SCT is invited to consider and to comment on the draft revised TLT as contained in the Annex to this document, with a view to finalizing the work on the basic proposal for the revised TLT.

[Annex follows]

ANNEX

Draft Revised Trademark Law Treaty

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Article 1
Abbreviated Expressions

For the purposes of this Treaty, unless expressly stated otherwise:

- (i) “Office” means the agency entrusted by a Contracting Party with the registration of marks;
- (ii) “registration” means the registration of a mark by an Office;
- (iii) “application” means an application for registration;
- (iv) “communication” means any application, or any request, declaration, correspondence or other information relating to an application or a registration, which is filed with the Office;
- (v) references to a “person” “or persons” shall be construed as references to both a natural person and a legal entity;
- (vi) “holder” means the person whom the register of marks shows as the holder of the registration;
- (vii) “register of marks” means the collection of data maintained by an Office, which includes the contents of all registrations and all data recorded in respect of all registrations, irrespective of the medium in which such data are stored;
- (viii) “procedure before the Office” means any procedure in proceedings before the Office with respect to an application or a registration;
- (ix) “Paris Convention” means the Paris Convention for the Protection of Industrial Property, signed at Paris on March 20, 1883, as revised and amended;
- (x) “Nice Classification” means the classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, signed at Nice on June 15, 1957, as revised and amended;
- (xi) “license” means a license for the use of a mark under the applicable law of a Contracting Party;
- (xii) “licensee” means the person to whom the holder grants a license;
- (xiii) “exclusive license” means a license which is only granted to one licensee and which excludes the holder from using the mark and from granting licenses to any other person;
- (xiv) “sole license” means a license which is only granted to one licensee and which excludes the holder from granting licenses to any other person but does not exclude the holder from using the mark;
- (xv) “non-exclusive license” means a license which does not exclude the holder from using the mark or from granting licenses to any other person;

[Article 1, continued]

(xvi) “Contracting Party” means any State or intergovernmental organization party to this Treaty;

(xvii) references to an “instrument of ratification” shall be construed as including references to instruments of acceptance and approval;

(xviii) “Organization” means the World Intellectual Property Organization;

(xix) “International Bureau” means the International Bureau of the Organization;

(xx) “Director General” means the Director General of the Organization;

(xxi) “Regulations” means the Regulations under this Treaty that are referred to in Article 23;

(xxii) references to an “Article” or to a paragraph, subparagraph or item of an Article shall be construed as including references to the corresponding rule(s) under the Regulations;

(xxiii) “Trademark Law Treaty 1994” means the Trademark Law Treaty and Regulations done at Geneva on October 27, 1994.

Article 2

Marks to Which the Treaty Applies

(1) *[Nature of Marks]*

(a) This Treaty shall apply to marks consisting of visible signs,

Supprimé : except for hologram marks

(b) This Treaty may apply to marks not consisting of visible signs, in particular, sound marks and olfactory marks.

Supprimé : shall not

(c) Contracting Parties are not obliged to accept for registration signs that cannot be registered as marks under the applicable law.

(2) *[Kinds of Marks]*

(a) This Treaty shall apply to marks relating to goods (trademarks) or services (service marks) or both goods and services.

(b) This Treaty shall not apply to collective marks, certification marks and guarantee marks.

Article 3
Application

(1) [*Indications or Elements Contained in or Accompanying an Application; Fee*]

(a) Any Contracting Party may require that an application contain some or all of the following indications or elements:

(i) a request for registration;

(ii) the name and address of the applicant;

(iii) the name of a State of which the applicant is a national if he is the national of any State, the name of a State in which the applicant has his domicile, if any, and the name of a State in which the applicant has a real and effective industrial or commercial establishment, if any;

(iv) where the applicant is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;

(v) where the applicant has a representative, the name and address of that representative;

(vi) where an address for service is required under Article 4(2)(b), such address;

(vii) where the applicant wishes to take advantage of the priority of an earlier application, a declaration claiming the priority of that earlier application, together with indications and evidence in support of the declaration of priority that may be required pursuant to Article 4 of the Paris Convention;

(viii) where the applicant wishes to take advantage of any protection resulting from the display of goods and/or services in an exhibition, a declaration to that effect, together with indications in support of that declaration, as required by the law of the Contracting Party;

(ix) where the Office of the Contracting Party uses characters (letters and numbers) that it considers as being standard and where the applicant wishes that the mark be registered and published in standard characters, a statement to that effect;

(x) where the applicant wishes to claim color as a distinctive feature of the mark, a statement to that effect as well as the name or names of the color or colors claimed and an indication, in respect of each color, of the principal parts of the mark which are in that color;

(xi) where the mark is a three-dimensional mark, a statement to that effect;

~~(xii) where the mark is a hologram mark, a statement to that effect;~~

~~(xiii) where the mark consists of a non-visible sign, a statement to that effect and a representation of the mark as prescribed in the Regulations;~~

~~(xiv) a reproduction of the mark, as prescribed in the Regulations;~~

Supprimé : xii

Supprimé : one or more

Supprimé : s

[Article 3(1)(a), continued]

(xv) a transliteration of the mark or of certain parts of the mark;

Supprimé : xiii

(xvi) a translation of the mark or of certain parts of the mark;

Supprimé : xiv

(xvii) the names of the goods and/or services for which the registration is sought, grouped according to the classes of the Nice Classification, each group preceded by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;

Supprimé : xv

(xviii) a declaration of intention to use the mark, as required by the law of the Contracting Party.

Supprimé : xvi

(b) The applicant may file, instead of or in addition to the declaration of intention to use the mark referred to in subparagraph (a)(xviii), a declaration of actual use of the mark and evidence to that effect, as required by the law of the Contracting Party.

Supprimé : xvi

(c) Any Contracting Party may require that, in respect of the application, fees be paid to the Office.

(2) [*Single Application for Goods and/or Services in Several Classes*] One and the same application may relate to several goods and/or services, irrespective of whether they belong to one class or to several classes of the Nice Classification.

(3) [*Actual Use*] Any Contracting Party may require that, where a declaration of intention to use has been filed under paragraph (1)(a)(xviii), the applicant furnish to the Office within a time limit fixed in its law, subject to the minimum time limit prescribed in the Regulations, evidence of the actual use of the mark, as required by the said law.

Supprimé : xvi

(4) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (3) and in Article 8 be complied with in respect of the application. In particular, the following may not be required in respect of the application throughout its pendency:

(i) the furnishing of any certificate of, or extract from, a register of commerce;

(ii) an indication of the applicant's carrying on of an industrial or commercial activity, as well as the furnishing of evidence to that effect;

(iii) an indication of the applicant's carrying on of an activity corresponding to the goods and/or services listed in the application, as well as the furnishing of evidence to that effect;

(iv) the furnishing of evidence to the effect that the mark has been registered in the register of marks of another Contracting Party or of a State party to the Paris Convention which is not a Contracting Party, except where the applicant claims the application of Article 6quinquies of the Paris Convention.

[Article 3, continued]

(5) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office in the course of the examination of the application where the Office may reasonably doubt the veracity of any indication or element contained in the application.

Article 4
Representation; Address for Service

(1) [*Representatives Admitted to Practice*]

(a) Any Contracting Party may require that a representative appointed for the purposes of any procedure before the Office

(i) have the right, under the applicable law, to practice before the Office in respect of applications and registrations;

(ii) provide, as his address, an address on a territory prescribed by the Contracting Party.

(b) An act, with respect to any procedure before the Office, by or in relation to a representative who complies with the requirements applied by the Contracting Party under subparagraph (a), shall have the effect of an act by or in relation to the applicant, holder or other interested person who appointed that representative.

(2) [*Mandatory Representation; Address for Service*]

(a) Any Contracting Party may require that, for the purposes of any procedure before the Office, an applicant, holder or other interested person who has neither a domicile nor a real and effective industrial or commercial establishment on its territory be represented by a representative.

(b) Any Contracting Party may, to the extent that it does not require representation in accordance with subparagraph (a), require that, for the purposes of any procedure before the Office, any person who has neither a domicile nor a real and effective industrial or commercial establishment on its territory have an address for service on that territory.

(3) [*Power of Attorney*]

(a) Whenever a Contracting Party allows or requires an applicant, a holder or any other interested person to be represented by a representative before the Office, it may require that the representative be appointed in a separate communication (hereinafter referred to as “power of attorney”) indicating the name of the applicant, the holder or the other person, as the case may be.

(b) The power of attorney may relate to one or more applications and/or registrations identified in the power of attorney or, subject to any exception indicated by the appointing person, to all existing and future applications and/or registrations of that person.

[Article 4(3), continued]

(c) The power of attorney may limit the powers of the representative to certain acts. Any Contracting Party may require that any power of attorney under which the representative has the right to withdraw an application or to surrender a registration contain an express indication to that effect.

(d) Where a communication is submitted to the Office by a person who refers to himself in the communication as a representative but where the Office is, at the time of the receipt of the communication, not in possession of the required power of attorney, the Contracting Party may require that the power of attorney be submitted to the Office within the time limit fixed by the Contracting Party, subject to the minimum time limit prescribed in the Regulations. Any Contracting Party may provide that, where the power of attorney has not been submitted to the Office within the time limit fixed by the Contracting Party, the communication by the said person shall have no effect.

(4) [*Reference to Power of Attorney*] Any Contracting Party may require that any communication made to the Office by a representative for the purposes of a procedure before the Office contain a reference to the power of attorney on the basis of which the representative acts.

(5) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (3) and (4) and in Article 8 be complied with in respect of the matters dealt with in those paragraphs.

(6) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in any communication referred to in paragraphs (2) to (4).

Article 5
Filing Date

(1) [*Permitted Requirements*]

(a) Subject to subparagraph (b) and paragraph (2), a Contracting Party shall accord as the filing date of an application the date on which the Office received the following indications and elements in the language required under Article 8(2):

- (i) an express or implicit indication that the registration of a mark is sought;
- (ii) indications allowing the identity of the applicant to be established;
- (iii) indications allowing the applicant or his representative, if any, to be contacted by the Office;
- (iv) a sufficiently clear reproduction of the mark whose registration is sought;
- (v) the list of the goods and/or services for which the registration is sought;

[Article 5(1)(a), continued]

(vi) where Article 3(1)(a)(~~xviii~~) or (b) applies, the declaration referred to in Article 3(1)(a)(~~xviii~~) or the declaration and evidence referred to in Article 3(1)(b), respectively, as required by the law of the Contracting Party.

Supprimé : xvi

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(b) Any Contracting Party may accord as the filing date of the application the date on which the Office received only some, rather than all, of the indications and elements referred to in subparagraph (a) or received them in a language other than the language required under Article 8(2).

(2) [*Permitted Additional Requirement*]

(a) A Contracting Party may provide that no filing date shall be accorded until the required fees are paid.

(b) A Contracting Party may apply the requirement referred to in subparagraph (a) only if it applied such requirement at the time of becoming party to this Treaty.

(3) [*Corrections and Time Limits*] The modalities of, and time limits for, corrections under paragraphs (1) and (2) shall be fixed in the Regulations.

(4) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) be complied with in respect of the filing date.

Article 6

Single Registration for Goods and/or Services in Several Classes

Where goods and/or services belonging to several classes of the Nice Classification have been included in one and the same application, such an application shall result in one and the same registration.

Article 7

Division of Application and Registration

(1) [*Division of Application*]

(a) Any application listing several goods and/or services (hereinafter referred to as “initial application”) may,

(i) at least until the decision by the Office on the registration of the mark,

(ii) during any opposition proceedings against the decision of the Office to register the mark,

[Article 7(1)(a), continued]

(iii) during any appeal proceedings against the decision on the registration of the mark,

be divided by the applicant or at his request into two or more applications (hereinafter referred to as “divisional applications”) by distributing among the latter the goods and/or services listed in the initial application. The divisional applications shall preserve the filing date of the initial application and the benefit of the right of priority, if any.

(b) Any Contracting Party shall, subject to subparagraph (a), be free to establish requirements for the division of an application, including the payment of fees.

(2) [*Division of Registration*] Paragraph (1) shall apply, *mutatis mutandis*, with respect to a division of a registration. Such a division shall be permitted

(i) during any proceedings in which the validity of the registration is challenged before the Office by a third party,

(ii) during any appeal proceedings against a decision taken by the Office during the former proceedings,

provided that a Contracting Party may exclude the possibility of the division of registrations if its law allows third parties to oppose the registration of a mark before the mark is registered.

Article 8 *Communications*

(1) [*Means of Transmittal and Form of Communications*] Any Contracting Party may choose the means of transmittal and form of communications.

(2) [*Language of Communications*]

(a) Any Contracting Party may require that any communication be in a language admitted by the Office. Where the Office admits more than one language, the applicant, holder or other interested person may be required to comply with any other language requirement applicable with respect to the Office, provided that no indication or element of the communication may be required to be in more than one language.

(b) No Contracting Party may require the attestation, notarization, authentication, legalization or any other certification of any translation of a communication other than as provided under this Treaty.

(c) Where an Office does not require a communication to be in a language admitted by the Office, it may require that a translation of that communication by an official translator or a representative, into a language admitted by the Office, be supplied within a reasonable time limit.

[Article 8, continued]

(3) [*Signature of Communications on Paper*]

(a) Any Contracting Party may require that a communication on paper be signed by the applicant, holder or other interested person. Where a Contracting Party requires a communication on paper to be signed, that Contracting Party shall accept any signature that complies with the requirements prescribed in the Regulations.

(b) No Contracting Party may require the attestation, notarization, authentication, legalization or other certification of any signature except, where the law of the Contracting Party so provides, if the signature concerns the surrender of a registration.

(c) Notwithstanding subparagraph (b), a Contracting Party may require that evidence be filed with the Office where the Office may reasonably doubt the authenticity of any signature of a communication on paper.

(4) [*Communications Filed in Electronic Form or by Electronic Means of Transmittal*]

Where a Contracting Party permits the filing of communications in electronic form or by electronic means of transmittal, it may require that any such communications comply with the requirements prescribed in the Regulations.

(5) [*Presentation of a Communication*] Subject to paragraphs (1) to (4), any Contracting Party shall accept the presentation of a communication the content of which corresponds to the relevant Model International Form, if any, provided for in the Regulations.

(6) [*Prohibition of Other Requirements*] No Contracting Party may demand that, in respect of paragraphs (1) to (5), requirements other than those referred to in this Article be complied with.

Article 9
Classification of Goods and/or Services

(1) [*Indications of Goods and/or Services*] Each registration and any publication effected by an Office which concerns an application or registration and which indicates goods and/or services shall indicate the goods and/or services by their names, grouped according to the classes of the Nice Classification, and each group shall be preceded by the number of the class of that Classification to which that group of goods or services belongs and shall be presented in the order of the classes of the said Classification.

(2) [*Goods or Services in the Same Class or in Different Classes*]

(a) Goods or services may not be considered as being similar to each other on the ground that, in any registration or publication by the Office, they appear in the same class of the Nice Classification.

(b) Goods or services may not be considered as being dissimilar from each other on the ground that, in any registration or publication by the Office, they appear in different classes of the Nice Classification.

Article 10
Changes in Names or Addresses

(1) [*Changes in the Name or Address of the Holder*]

(a) Where there is no change in the person of the holder but there is a change in his name and/or address, each Contracting Party shall accept that a request for the recordal of the change by the Office in its register of marks be made **by the holder** in a communication indicating the registration number of the registration concerned and the change to be recorded.

(b) Any Contracting Party may require that the request indicate

(i) the name and address of the holder;

(ii) where the holder has a representative, the name and address of that representative;

(iii) where the holder has an address for service, such address.

(c) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(d) A single request shall be sufficient even where the change relates to more than one registration, provided that the registration numbers of all registrations concerned are indicated in the request.

(2) [*Change in the Name or Address of the Applicant*] Paragraph (1) shall apply, *mutatis mutandis*, where the change concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or his representative, the request otherwise identifies that application as prescribed in the Regulations.

(3) [*Change in the Name or Address of the Representative or in the Address for Service*] Paragraph (1) shall apply, *mutatis mutandis*, to any change in the name or address of the representative, if any, and to any change relating to the address for service, if any.

(4) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (3) and in Article 8 be complied with in respect of the request referred to in this Article. In particular, the furnishing of any certificate concerning the change may not be required.

(5) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in the request.

Article 11
Change in Ownership

(1) [*Change in the Ownership of a Registration*]

(a) Where there is a change in the person of the holder, each Contracting Party shall accept that a request for the recordal of the change by the Office in its register of marks be made by the holder or by the person who acquired the ownership (hereinafter referred to as "new owner") in a communication indicating the registration number of the registration concerned and the change to be recorded.

(b) Where the change in ownership results from a contract, any Contracting Party may require that the request indicate that fact and be accompanied, at the option of the requesting party, by one of the following:

(i) a copy of the contract, which copy may be required to be certified, by a notary public or any other competent public authority, as being in conformity with the original contract;

(ii) an extract of the contract showing the change in ownership, which extract may be required to be certified, by a notary public or any other competent public authority, as being a true extract of the contract;

(iii) an uncertified certificate of transfer drawn up in the form and with the content as prescribed in the Regulations and signed by both the holder and the new owner;

(iv) an uncertified transfer document drawn up in the form and with the content as prescribed in the Regulations and signed by both the holder and the new owner.

(c) Where the change in ownership results from a merger, any Contracting Party may require that the request indicate that fact and be accompanied by a copy of a document, which document originates from the competent authority and evidences the merger, such as a copy of an extract from a register of commerce, and that that copy be certified by the authority which issued the document or by a notary public or any other competent public authority, as being in conformity with the original document.

(d) Where there is a change in the person of one or more but not all of several co-holders and such change in ownership results from a contract or a merger, any Contracting Party may require that any co-holder in respect of which there is no change in ownership give his express consent to the change in ownership in a document signed by him.

(e) Where the change in ownership does not result from a contract or a merger but from another ground, for example, from operation of law or a court decision, any Contracting Party may require that the request indicate that fact and be accompanied by a copy of a document evidencing the change and that that copy be certified as being in conformity with the original document by the authority which issued the document or by a notary public or any other competent public authority.

[Article 11(1), continued]

(f) Any Contracting Party may require that the request indicate

(i) the name and address of the holder;

(ii) the name and address of the new owner;

(iii) the name of a State of which the new owner is a national if he is the national of any State, the name of a State in which the new owner has his domicile, if any, and the name of a State in which the new owner has a real and effective industrial or commercial establishment, if any;

(iv) where the new owner is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;

(v) where the holder has a representative, the name and address of that representative;

(vi) where the holder has an address for service, such address;

(vii) where the new owner has a representative, the name and address of that representative;

(viii) where the new owner is required to have an address for service under Article 4(2)(b), such address.

(g) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(h) A single request shall be sufficient even where the change relates to more than one registration, provided that the holder and the new owner are the same for each registration and that the registration numbers of all registrations concerned are indicated in the request.

(i) Where the change of ownership does not affect all the goods and/or services listed in the holder's registration, and the applicable law allows the recording of such change, the Office shall create a separate registration referring to the goods and/or services in respect of which the ownership has changed.

(2) [*Change in the Ownership of an Application*] Paragraph (1) shall apply, *mutatis mutandis*, where the change in ownership concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or his representative, the request otherwise identifies that application as prescribed in the Regulations.

(3) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) and in Article 8 be complied with in respect of the request referred to in this Article. In particular, the following may not be required:

[Article 11(3), continued]

(i) subject to paragraph (1)(c), the furnishing of any certificate of, or extract from, a register of commerce;

(ii) an indication of the new owner's carrying on of an industrial or commercial activity, as well as the furnishing of evidence to that effect;

(iii) an indication of the new owner's carrying on of an activity corresponding to the goods and/or services affected by the change in ownership, as well as the furnishing of evidence to either effect;

(iv) an indication that the holder transferred, entirely or in part, his business or the relevant goodwill to the new owner, as well as the furnishing of evidence to either effect.

(4) *[Evidence]* Any Contracting Party may require that evidence, or further evidence where paragraph (1)(c) or (e) applies, be furnished to the Office where that Office may reasonably doubt the veracity of any indication contained in the request or in any document referred to in the present Article.

Article 12
Correction of a Mistake

(1) *[Correction of a Mistake in Respect of a Registration]*

(a) Each Contracting Party shall accept that the request for the correction of a mistake which was made in the application or other request communicated to the Office and which mistake is reflected in its register of marks and/or any publication by the Office be made by the holder in a communication indicating the registration number of the registration concerned, the mistake to be corrected and the correction to be entered.

(b) Any Contracting Party may require that the request indicate

(i) the name and address of the holder;

(ii) where the holder has a representative, the name and address of that representative;

(iii) where the holder has an address for service, such address.

(c) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(d) A single request shall be sufficient even where the correction relates to more than one registration of the same person, provided that the mistake and the requested correction are the same for each registration and that the registration numbers of all registrations concerned are indicated in the request.

[Article 12, continued]

(2) [*Correction of a Mistake in Respect of an Application*] Paragraph (1) shall apply, *mutatis mutandis*, where the mistake concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or his representative, the request otherwise identifies that application as prescribed in the Regulations.

(3) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) and in Article 8 be complied with in respect of the request referred to in this Article.

(4) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt that the alleged mistake is in fact a mistake.

(5) [*Mistakes Made by the Office*] The Office of a Contracting Party shall correct its own mistakes, *ex officio* or upon request, for no fee.

(6) [*Uncorrectable Mistakes*] No Contracting Party shall be obliged to apply paragraphs (1), (2) and (5) to any mistake which cannot be corrected under its law.

Article 13
Duration and Renewal of Registration

(1) [*Indications or Elements Contained in or Accompanying a Request for Renewal; Fee*]

(a) Any Contracting Party may require that the renewal of a registration be subject to the filing of a request and that such request contain some or all of the following indications:

- (i) an indication that renewal is sought;
- (ii) the name and address of the holder;
- (iii) the registration number of the registration concerned;
- (iv) at the option of the Contracting Party, the filing date of the application which resulted in the registration concerned or the registration date of the registration concerned;
- (v) where the holder has a representative, the name and address of that representative;
- (vi) where the holder has an address for service, such address;
- (vii) where the Contracting Party allows the renewal of a registration to be made for some only of the goods and/or services which are recorded in the register of marks and such a renewal is requested, the names of the recorded goods and/or services for which the renewal is requested or the names of the recorded goods and/or services for which the renewal is not requested, grouped according to the classes of the Nice Classification, each group preceded by the

[Article 13(1)(a)(vii), continued]

number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;

(viii) where a Contracting Party allows a request for renewal to be filed by a person other than the holder or his representative and the request is filed by such a person, the name and address of that person.

(b) Any Contracting Party may require that, in respect of the request for renewal, a fee be paid to the Office. Once the fee has been paid in respect of the initial period of the registration or of any renewal period, no further payment may be required for the maintenance of the registration in respect of that period. Fees associated with the furnishing of a declaration and/or evidence of use shall not be regarded, for the purposes of this subparagraph, as payments required for the maintenance of the registration and shall not be affected by this subparagraph.

(c) Any Contracting Party may require that the request for renewal be presented, and the corresponding fee referred to in subparagraph (b) be paid, to the Office within the period fixed by the law of the Contracting Party, subject to the minimum periods prescribed in the Regulations.

(2) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraph (1) and in Article 8 be complied with in respect of the request for renewal. In particular, the following may not be required:

- (i) any reproduction or other identification of the mark;
- (ii) the furnishing of evidence to the effect that the mark has been registered, or that its registration has been renewed, in any other register of marks;
- (iii) the furnishing of a declaration and/or evidence concerning use of the mark.

Supprimé : national or regional

Supprimé : , except where Article 3(4)(iv) applies

(3) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office in the course of the examination of the request for renewal where the Office may reasonably doubt the veracity of any indication or element contained in the request for renewal.

(4) [*Prohibition of Substantive Examination*] No Office of a Contracting Party may, for the purposes of effecting the renewal, examine the registration as to substance.

(5) [*Duration*] The duration of the initial period of the registration, and the duration of each renewal period, shall be 10 years.

Article 14

Relief Measures in Case of Failure to Comply with Time Limits

[Article 14, continued]

Supprimé : (1) . [*Extension of Time Limits*] A Contracting Party may provide for the extension, for the period prescribed in the Regulations, of a time limit for an action in a procedure before the Office

(1) [Relief Measure Before the Expiry of a Time Limit] A Contracting Party may provide for the extension of a time limit for an action in a procedure before the Office in respect of an application or a registration, if a request to that effect is filed with the Office prior to the expiry of the time limit.

(2) [Relief Measures After the Expiry of a Time Limit] Where an applicant, holder or other interested party has failed to comply with a time limit (“the time limit concerned”) for an action in a procedure before the Office of a Contracting Party in respect of an application or a registration, the Contracting Party shall provide for one or more of the following relief measures, in accordance with the requirements prescribed in the Regulations, if a request to that effect is filed with the Office:

(i) extension of the time limit concerned for the period prescribed in the Regulations;

(ii) continued processing with respect to the application or registration;

(iii) reinstatement of the rights of the applicant, holder or other interested person with respect to the application or registration if the Office finds that the failure to comply with the time limit concerned occurred in spite of due care required by the circumstances having been taken or, at the option of the Contracting Party, that the failure was unintentional.

[Article 14, continued]

(3) [Exceptions] No Contracting Party shall be required to provide for any of the relief measures referred to in paragraphs (1) and (2) with respect to the exceptions prescribed in the Regulations.

(4) [Fees] Any Contracting Party may require that a fee be paid in respect of any of the relief measures referred to in paragraphs (1) and (2).

(5) [Prohibition of Other Requirements] No Contracting Party may demand that requirements other than those referred to in this Article and in Article 8 be complied with in respect of any of the relief measures referred to in paragraphs (1) and (2).

Article 15

Obligation to Comply with the Paris Convention

Any Contracting Party shall comply with the provisions of the Paris Convention which concern marks.

Supprimé : in respect of an application or a registration (“the time limit concerned”). A request to that effect shall be filed with the Office in accordance with the requirements prescribed in the Regulations and shall be filed, at the option of the Contracting Party,¶

¶
(i) . prior to the expiry of the time limit concerned, or

Supprimé : (ii) . after the expiry of the time limit concerned.

Supprimé : (2) . [Continued Processing] Where an applicant, holder or other interested person has failed to comply with a time limit (“the time limit concerned”) for an action in a procedure before the Office of a Contracting Party in respect of an application or a registration, and that Contracting Party does not provide for an extension of time limits under paragraph (1)(ii) or for reinstatement of rights under paragraph (3), the Contracting Party shall provide for continued processing with respect to the application or the registration. A request to that effect shall be filed with the Office in accordance with the requirements prescribed in the Regulations.¶

¶
(3) . [Reinstatement of Rights] Where an applicant, holder or other interested person has failed to comply with a time limit (“the time limit concerned”) for an action in a procedure before the Office of a Contracting Party in respect of an application or a registration, and that Contracting Party does not provide for an extension of time limits under paragraph (1)(ii) or for continued processing under paragraph (2), the Contracting Party shall provide that the Office shall reinstate the rights of the applicant, holder or other interested person with respect to the application or registration concerned if the Office finds that the failure to comply with the time limit concerned occurred in spite of due care required by the circumstances having been taken or, at the option of the Contracting Party, that the failure was unintentional. A request to that effect shall be filed with the Office in accordance with the requirements ... [1]

Supprimé : 4

Supprimé : procedures

Supprimé : to (3)

Supprimé : 5

Supprimé : procedure

Supprimé : to (3)

Supprimé : 6

Supprimé : procedures

Supprimé : to (3)

Article 16
Service Marks

Any Contracting Party shall register service marks and apply to such marks the provisions of the Paris Convention which concern trademarks.

Article 17
Request for Recordal of a License

(1) [*Contents of the Request for Recordal*] Where the law of a Contracting Party provides for the recordal of a license with its Office, that Contracting Party may require that the request for recordal

(i) be filed in accordance with the requirements prescribed in the Regulations, and

Supprimé : .

(ii) be accompanied by the supporting documents prescribed in the Regulations.

(2) [*Fees*] Any Contracting Party may require that, in respect of the recordal of a license, a fee be paid to the Office.

(3) [*Single Request Relating to Several Registrations*] A single request shall be sufficient even where the license relates to more than one registration, provided that the registration numbers of all registrations concerned are indicated in the request, the holder and the licensee are the same for all registrations, and the request indicates the scope of the license in accordance with the Regulations with respect to all registrations.

Supprimé : paragraph (1)

[Article 17, continued]

(4) [*Prohibition of Other Requirements*]

(a) No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (3) and in Article 8 be complied with in respect of the recordal of a license with its Office. In particular, the following may not be required:

- (i) the furnishing of the registration certificate of the mark which is the subject of the license;
- (ii) the furnishing of the license contract or a translation of it;
- (iii) an indication of the financial terms of the license contract.

(b) Subparagraph (a) is without prejudice to any obligations existing under the law of a Contracting Party concerning the disclosure of information for purposes other than the recording of the license in the register of marks.

(5) [Evidence] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in the request or in any document referred to in the Regulations.

(6) [Requests Relating to Applications] Paragraphs (1) to (5) shall apply, *mutatis mutandis*, to requests for recordal of a license for an application, where the applicable law of a Contracting Party provides for such recordal.

Article 18

Request for Amendment or Cancellation of the Recordal of a License

(1) [Contents of the Request] Where the law of a Contracting Party provides for the recordal of a license with its Office, that Contracting Party may require that the request for amendment or cancellation of the recordal of a license

(i) be filed in accordance with the requirements prescribed in the Regulations.
and

Supprimé : .

(ii) be accompanied by the supporting documents prescribed in the Regulations.

(2) [Other Requirements] Article 17(2) to (5) shall apply, *mutatis mutandis*, to requests for amendment or cancellation of the recordal of a license.

Article 19

Effects of the Non Recordal of a License

(1) [Validity of the Registration and Protection of the Mark] The non-recordal of a license with the Office or with any other authority of the Contracting Party shall not affect the validity of the registration of the mark which is the subject of the license, or the protection of that mark.

(2) [Certain Rights of the Licensee] A Contracting Party may not require the recordal of a license as a condition for any right that the licensee may have under the law of that Contracting Party to join infringement proceedings initiated by the holder or to obtain, by way of such proceedings, damages resulting from an infringement of the mark which is the subject of the license.

Supprimé : (a)

Supprimé : (b) . If subparagraph (a) is not compatible with the law of a Contracting Party, that subparagraph shall not apply in respect of that Contracting Party.

Article 20

Use of a Mark on Behalf of the Holder

A Contracting Party may not require the recordal of a license as a condition for the use of a mark by a licensee to be deemed to constitute use by the holder.

Supprimé : Use of a mark by a licensee shall be deemed to constitute use by the holder even where the license is not recorded with the Office or with any other national or regional authority.

Article 21
Indication of the License

Where the law of a Contracting Party requires an indication that the mark is used under a license, full or partial non-compliance with that requirement shall not affect the validity of the registration of the mark which is the subject of the license or the protection of that mark, and shall not affect the application of Article 20.

Article 22
Observations in Case of Intended Refusal

An application under Article 3 or a request under Articles 7, 10 to 13, 17 and 18 may not be refused totally or in part by an Office without giving the applicant or the requesting party, as the case may be, an opportunity to make observations on the intended refusal within a reasonable time limit.

Supprimé : 14

Article 23
Regulations

(1) [*Content*]

- (a) The Regulations annexed to this Treaty provide rules concerning
- (i) matters which this Treaty expressly provides to be “prescribed in the Regulations”;
 - (ii) any details useful in the implementation of the provisions of this Treaty;
 - (iii) any administrative requirements, matters or procedures.
- (b) The Regulations also contain Model International Forms.

(2) [*Amending the Regulations*] Subject to paragraph (3), any amendment of the Regulations shall require three-fourths of the votes cast.

(3) [*Requirement of Unanimity*]

- (a) The Regulations may specify provisions of the Regulations which may be amended only by unanimity.
- (b) Any amendment of the Regulations resulting in the addition of provisions to, or the deletion of provisions from, the provisions specified in the Regulations pursuant to subparagraph (a) shall require unanimity.
- (c) In determining whether unanimity is attained, only votes actually cast shall be taken into consideration. Abstentions shall not be considered as votes.

(4) [*Conflict Between the Treaty and the Regulations*] In the case of conflict between the provisions of this Treaty and those of the Regulations, the former shall prevail.

Article 24
Assembly

(1) [*Composition*]

(a) The Contracting Parties shall have an Assembly.

(b) Each Contracting Party shall be represented in the Assembly by one delegate, who may be assisted by alternate delegates, advisors and experts. Each delegate may represent only one Contracting Party.

(2) [*Tasks*] The Assembly shall

(i) deal with matters concerning the development of this Treaty;
[Article 24, continued]

(ii) amend the Regulations, **including the Model International Forms;**

(iii) determine the conditions for the date of application of each amendment referred to in item (ii);

(iv) perform such other functions as are appropriate under this Treaty.

Supprimé : (ii) . establish and modify Model International Forms, with the assistance of the International Bureau;

Supprimé : i

Supprimé : iv

Supprimé : each Model International Form, and

Supprimé : i

(3) [*Quorum*]

(a) One-half of the members of the Assembly which are States shall constitute a quorum.

(b) Notwithstanding subparagraph (a), if, in any session, the number of the members of the Assembly which are States and are represented is less than one-half but equal to or more than one-third of the members of the Assembly which are States, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the members of the Assembly which are States and were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of such members having thus expressed their vote or abstention attains the number of the members which was lacking for attaining the quorum in the session itself, such decisions shall take effect, provided that at the same time the required majority still obtains.

(4) [*Taking Decisions in the Assembly*]

(a) The Assembly shall endeavor to take its decisions by consensus.

(b) Where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. In such a case,

(i) each Contracting Party that is a State shall have one vote and shall vote only in its own name; and

(ii) any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its Member States which are party to this Treaty. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and vice versa. In addition, no such intergovernmental organization shall participate in the vote if any one of its Member States party to this Treaty is a Member State of another such intergovernmental organization and that other intergovernmental organization participates in that vote.

[Article 24, continued]

(5) [*Majorities*]

(a) Subject to Articles 23(2) and (3) and 26(2)(b), the decisions of the Assembly shall require two-thirds of the votes cast.

(b) In determining whether the required majority is attained, only votes actually cast shall be taken into consideration. Abstentions shall not be considered as votes.

(6) [*Sessions*] The Assembly shall meet upon convocation by the Director General, and in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(7) [*Rules of Procedure*] The Assembly shall establish its own rules of procedure, including rules for the convocation of extraordinary sessions.

Article 25 *International Bureau*

(1) [*Administrative Tasks*]

(a) The International Bureau shall perform the administrative tasks concerning this Treaty.

(b) In particular, the International Bureau shall prepare the meetings and provide the secretariat of the Assembly and of such committees of experts and working groups as may be established by the Assembly.

(2) [*Meetings Other than Sessions of the Assembly*] The Director General shall convene any committee and working group established by the Assembly.

[Article 25, continued]

(3) [*Role of the International Bureau in the Assembly and Other Meetings*]

(a) The Director General and persons designated by the Director General shall participate, without the right to vote, in all meetings of the Assembly, the committees and working groups established by the Assembly.

(b) The Director General or a staff member designated by the Director General shall be *ex officio* secretary of the Assembly, and of the committees and working groups referred to in subparagraph (a).

(4) [*Conferences*]

(a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for any revision conferences.

[Article 25, continued]

(b) The International Bureau may consult with member States of the Organization, intergovernmental organizations and international and national non-governmental organizations concerning the said preparations.

(c) The Director General and persons designated by the Director General shall take part, without the right to vote, in the discussions at revision conferences.

(5) [*Other Tasks*] The International Bureau shall carry out any other tasks assigned to it in relation to this Treaty.

Article 26
Revision and Amendment

(1) [*Revision of the Treaty*] This Treaty may be revised by a diplomatic conference. The convocation of any diplomatic conference shall be decided by the Assembly.

(2) [*Amendment by the Assembly of Certain Provisions of the Treaty*]

(a) Articles 24 and 25 may be amended by the Assembly. Proposals for amendment may be initiated by any Contracting Party or by the Director General. Such proposals shall be communicated by the Director General to the Contracting Parties at least six months in advance of their consideration by the Assembly.

(b) Adoption of any amendment to the Articles referred to in subparagraph (a) shall require three-fourths of the votes cast.

(c) Any amendment to the provisions referred to in subparagraph (a) 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 Contracting Parties. ~~Any amendment to the said provisions shall bind all the Contracting~~

Supprimé : which were members of the Assembly at the time the Assembly adopted the amendment

Supprimé : thus accepted

Parties at the time the amendment enters into force, and States and intergovernmental organizations which become Contracting Parties at a subsequent date.

Article 27
Becoming Party to the Treaty

(1) [*Eligibility*] The following entities may sign and, subject to paragraphs (2) and (3) and Article 29(1) and (3), become party to this Treaty:

(i) any State member of the Organization in respect of which marks may be registered with its own Office;

[Article 27(1), continued]

(ii) any intergovernmental organization which maintains an Office in which marks may be registered with effect in the territory in which the constituting treaty of the intergovernmental organization applies, in all its member States or in those of its member States which are designated for such purpose in the relevant application, provided that all the member States of the intergovernmental organization are members of the Organization;

(iii) any State member of the Organization in respect of which marks may be registered only through the Office of another specified State that is a member of the Organization;

(iv) any State member of the Organization in respect of which marks may be registered only through the Office maintained by an intergovernmental organization of which that State is a member;

(v) any State member of the Organization in respect of which marks may be registered only through an Office common to a group of States members of the Organization.

(2) [*Ratification or Accession*] Any entity referred to in paragraph (1) may deposit

(i) an instrument of ratification, if it has signed this Treaty,

(ii) an instrument of accession, if it has not signed this Treaty.

(3) [*Effective Date of Deposit*] The effective date of the deposit of an instrument of ratification or accession shall be,

(i) in the case of a State referred to in paragraph (1)(i), the date on which the instrument of that State is deposited;

(ii) in the case of an intergovernmental organization, the date on which the instrument of that intergovernmental organization is deposited;

Supprimé : (a) Subject to subparagraph (b), t

(iii) in the case of a State referred to in paragraph (1)(iii), the date on which the following condition is fulfilled: the instrument of that State has been deposited and the instrument of the other, specified State has been deposited;

[Article 27(3), continued]

(iv) in the case of a State referred to in paragraph (1)(iv), the date applicable under (ii), above;

(v) in the case of a State member of a group of States referred to in paragraph (1)(v), the date on which the instruments of all the States members of the group have been deposited.

[Article 27, continued]

Supprimé : (b) . Any instrument of ratification or accession (referred to in this subparagraph as "instrument") of a State may be accompanied by a declaration making it a condition to its being considered as deposited that the instrument of one other State or one intergovernmental organization, or the instruments of two other States, or the instruments of one other State and one

Supprimé : intergovernmental organization, specified by name and eligible to become party to this Treaty, is or are also deposited. The instrument containing such a declaration shall be considered to have been deposited on the day on which the condition indicated in the declaration is fulfilled. However, when the deposit of any instrument specified in the declaration is, itself, accompanied by a declaration of the said kind, that instrument shall be considered as deposited on the day on which the condition specified in the latter declaration is fulfilled.

Supprimé : (c) . Any declaration made under paragraph (b) may be withdrawn, in its entirety or in part, at any time. Any such withdrawal shall become effective on the date on which the notification of withdrawal is received by the Director General.

Article 28 *Application of the TLT 1994 and This Treaty*

(1) [*Relations Between Contracting Parties to Both This Treaty and the TLT 1994*] This Treaty alone shall be applicable as regards the mutual relations of Contracting Parties to both this Treaty and the TLT 1994.

(2) [*Relations Between Contracting Parties to This Treaty and Contracting Parties to the TLT 1994 That Are not Party to This Treaty*] Any Contracting Party to both this Treaty and the TLT 1994 shall continue to apply the TLT 1994 in its relations with Contracting Parties to the TLT 1994 that are not party to this Treaty.

Article 29 *Entry into Force; Effective Date of Ratifications and Accessions*

(1) [*Instruments to Be Taken Into Consideration*] For the purposes of this Article, only instruments of ratification or accession that are deposited by entities referred to in Article 27(1) and that have an effective date according to Article 27(3) shall be taken into consideration.

(2) [*Entry into Force of the Treaty*] This Treaty shall enter into force three months after five States have deposited their instruments of ratification or accession.

(3) [*Entry into Force of Ratifications and Accessions Subsequent to the Entry Into Force of the Treaty*] Any entity not covered by paragraph (2) shall become bound by this Treaty three months after the date on which it has deposited its instrument of ratification or accession.

Supprimé : (4) . [*Closing of the Trademark Law Treaty 1994*] No instrument of ratification or of accession to the Trademark Law Treaty 1994 may be deposited after the entry into force of this Treaty in accordance with paragraph (2).

Article 30
Reservations

(1) [*Special Kinds of Marks*] Any State or intergovernmental organization may declare through a reservation that, notwithstanding Article 2(1)(a) and (2)(a), any of the provisions of Articles 3(1), 5, 7, 8(5), 11 and 13 shall not apply to associated marks, defensive marks or derivative marks. Such reservation shall specify those of the aforementioned provisions to which the reservation relates.

~~(2) [*Certain Rights of the Licensee*] Any State or intergovernmental organization may declare through a reservation that, notwithstanding Article 19(2), it requires the recordal of a license as a condition for any right that the licensee may have under the law of that State or intergovernmental organization to join infringement proceedings initiated by the holder or to obtain, by way of such proceedings, damages resulting from an infringement of the mark which is the subject of the license.~~

~~(3) [*Modalities*] Any reservation under paragraph (1) or (2) shall be made in a declaration accompanying the instrument of ratification of, or accession to, this Treaty of the State or intergovernmental organization making the reservation.~~

Supprimé : 2

~~(4) [*Withdrawal*] Any reservation under paragraph (1) or (2) may be withdrawn at any time.~~

Supprimé : 3

~~(5) [*Prohibition of Other Reservations*] No reservation to this Treaty other than the reservation allowed under paragraphs (1) and (2) shall be permitted.~~

Supprimé : 4

Article 31
Denunciation of the Treaty

(1) [*Notification*] Any Contracting Party may denounce this Treaty by notification addressed to the Director General.

(2) [*Effective Date*] Denunciation shall take effect one year from the date on which the Director General has received the notification. It shall not affect the application of this Treaty to any application pending or any mark registered in respect of the denouncing Contracting Party at the time of the expiration of the said one-year period, provided that the denouncing Contracting Party may, after the expiration of the said one-year period, discontinue applying this Treaty to any registration as from the date on which that registration is due for renewal.

Article 32
Languages of the Treaty; Signature

(1) [*Original Texts; Official Texts*]

(a) This Treaty shall be signed in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic.

[Article 32(1), continued]

(b) An official text in a language not referred to in subparagraph (a) that is an official language of a Contracting Party shall be established by the Director General after consultation with the said Contracting Party and any other interested Contracting Party.

Mis en forme

(2) [*Time Limit for Signature*] This Treaty shall remain open for signature at the headquarters of the Organization for one year after its adoption.

Article 33
Depositary

The Director General shall be the depositary of this Treaty.

[End of Annex and of document]

(2) [*Continued Processing*] Where an applicant, holder or other interested person has failed to comply with a time limit (“the time limit concerned”) for an action in a procedure before the Office of a Contracting Party in respect of an application or a registration, and that Contracting Party does not provide for an extension of time limits under paragraph (1)(ii) or for reinstatement of rights under paragraph (3), the Contracting Party shall provide for continued processing with respect to the application or the registration. A request to that effect shall be filed with the Office in accordance with the requirements prescribed in the Regulations.

(3) [*Reinstatement of Rights*] Where an applicant, holder or other interested person has failed to comply with a time limit (“the time limit concerned”) for an action in a procedure before the Office of a Contracting Party in respect of an application or a registration, and that Contracting Party does not provide for an extension of time limits under paragraph (1)(ii) or for continued processing under paragraph (2), the Contracting Party shall provide that the Office shall reinstate the rights of the applicant, holder or other interested person with respect to the application or registration concerned if the Office finds that the failure to comply with the time limit concerned occurred in spite of due care required by the circumstances having been taken or, at the option of the Contracting Party, that the failure was unintentional. A request to that effect shall be filed with the Office in accordance with the requirements prescribed in the Regulations.