

Special Union for the International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Union)

Committee of Experts

Thirty-First Session
Geneva, April 19 to 23, 2021

REPORT

adopted by the Committee of Experts

INTRODUCTION

1. The Committee of Experts of the Nice Union (hereinafter referred to as “the Committee”) held its thirty-first session in Geneva from April 19 to 23, 2021 in hybrid format. The following members of the Committee were represented at the session: Algeria, Australia, Austria, Benin, Canada, China, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Hungary, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Malaysia, Mexico, Netherlands, New Zealand, North Macedonia, Norway, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Serbia, Singapore, Slovakia, Slovenia, Spain, Sweden, Switzerland, Trinidad and Tobago, Turkey, Ukraine, United Kingdom and United States of America (47). The following States were represented by observers: Brazil, Burundi, Chile, Colombia, Dominican Republic, Indonesia, Iraq, Lesotho, Madagascar, Namibia, Nicaragua, Peru, Saudi Arabia and Thailand (14). Representatives of the following international intergovernmental organizations took part in the session in an observer capacity: Benelux Office for Intellectual Property (BOIP) and European Union (EU). Representatives of the following non-governmental organizations attended the session in an observer capacity: Association for the Protection of Intellectual Property (AIPPI), Intellectual Property Institute of Canada (IPIC) and International Trademark Association (INTA). The list of participants appears as Annex I to this report.

2. The session was opened by Mr. Kenichiro Natsume, Assistant Director General, WIPO, who welcomed the participants.

OFFICERS

3. The Committee unanimously elected Mr. Thom Clark (EUIPO) as Chair.
4. Ms. Alison Züger (WIPO) acted as Secretary of the session.

ADOPTION OF THE AGENDA

5. The Committee unanimously adopted the agenda, which appears as Annex II to this report.

DISCUSSIONS, CONCLUSIONS AND DECISIONS

6. As decided by the Governing Bodies of WIPO at their tenth series of meetings held from September 24 to October 2, 1979 (see document AB/X/32, paragraphs 51 and 52), the report of this session reflects only the conclusions of the Committee (decisions, recommendations, opinions, etc.) and does not, in particular, reflect the statements made by any participant, except where a reservation in relation to any specific conclusion of the Committee was expressed or repeated after the conclusion was reached.

DECISIONS OF THE COMMITTEE

7. In accordance with the provisions of Article 3(7)(a) and (b) of the Nice Agreement, the decisions of the Committee concerning the adoption of amendments¹ to the Nice Classification (hereinafter referred to as “the Classification”) required a four-fifth majority of the countries of the Nice Union represented and voting at the session. Decisions concerning the adoption of other changes to the Classification required a simple majority of the countries of the Nice Union represented and voting at the session.

CONSIDERATION OF PROPOSALS APPROVED AFTER VOTE 1 IN NCLRMS

8. Discussions were based on project [CE312](#), [Annex 11](#), which contained a summary table of proposals for amendments and other changes to the Classification, which had received majority support at Vote 1 in [NCLRMS](#).
9. The Committee adopted a significant number of amendments and other changes to the Classification. The decisions of the Committee are available on the [electronic forum](#), project [CE310](#), as well as in [NCLRMS](#) (see “Sessions/CE31/All Proposals” tab).

¹ Article 3(7)(b) of the Nice Agreement provides that “...“Amendment” shall mean any transfer of goods or services from one class to another or the creation of any new class.”

CONSIDERATION OF PROPOSALS PENDING AFTER VOTE 1 IN NCLRMS

10. Discussions were based on project [CE312](#), Annexes [12](#) and [13](#), which contained summary tables of proposals for amendments and other changes to the Classification, which were either pending approval or rejected after Vote 1 in [NCLRMS](#).

11. The Committee noted that any pending or rejected proposals from Vote 1 that could not be discussed at this session due to lack of time would go forward to the post-session Vote 2.

12. The Committee adopted a number of amendments and other changes to the Classification. The decisions of the Committee are available on the [electronic forum](#), project [CE310](#), as well as in [NCLRMS](#) (see “Sessions/CE31/All Proposals” tab).

NEW REVISION PROCEDURE WITH NCLRMS (NICE CLASSIFICATION REVISION MANAGEMENT SOLUTION)

(a) INTRODUCTION OF VOTE 2

13. Discussions were based on project [CE312](#), [Annex 6](#), relating to the new revision procedure using [NCLRMS](#), including the introduction of Votes 1 and 2, submitted by the International Bureau.

14. Overall the Committee was supportive of the way in which the International Bureau had maintained the revision cycle during the Covid-19 pandemic, whilst concurrently introducing the new revision platform NCLRMS. The latter had facilitated the process by providing the possibility of electronic voting, which in turn reduced the backlog of pending proposals from CE29 and CE30. Whilst the introduction of Votes 1 and 2 were appreciated for the current session, some concerns were raised about their use in future sessions. In particular, concerns about the possible substitution of in-person sessions with electronic means were expressed and so the International Bureau underlined that this was not the intention of the proposed procedure and that in-person sessions and electronic means should complement each other. Therefore, certain aspects of the project did not obtain consensus. Following discussions, and due to the time constraints of the hybrid session, the International Bureau decided to open a project on the [electronic forum](#) (project [SP002](#), Annex 1) to collect feedback from Member States, in order to submit an amended procedure at the next session.

(b) CONSIDERATION OF A PROPOSAL FOR AMENDMENTS TO THE RULES OF PROCEDURE OF THE COMMITTEE OF EXPERTS

15. Discussions were based on project [CE312](#), [Annex 7](#), relating to amendments to the Rules of Procedure of the Committee of Experts of the Nice Union.

16. The Committee adopted amendments to Rule 7(2) of its Rules of Procedure as contained in Annex III to this report.

REPORT ON NCL-RELATED IT SYSTEMS

(a) NCLPUB ALPHABETICAL LIST

17. Discussions were based on project [CE312](#), [Annex 8](#), relating to the presentation of the List of Goods and Services in Alphabetical Order in the Alphabetical tab.

18. The Committee agreed that the online publication for the Nice Classification would display a pure alphabetical order under each letter of the Alphabetical tab without sort words.

ENTRY INTO FORCE OF NCL12

19. The Committee agreed that the entry into force of the twelfth edition of the Nice Classification will be postponed to 2023, and that amendments in the sense of Article 3(7)(b) of the Nice Agreement² adopted during the five-year revision period to date, as well as those that will be adopted at CE32 in 2022, would be incorporated and published online in a new edition (NCL (12-2023)) that would enter into force on January 1, 2023.

20. In accordance with Rule 7 of its Rules of Procedure, the Committee agreed that changes to the Classification that did not entail an amendment in the sense of Article 3(7)(b) of the Nice Agreement will enter into force on January 1, 2022, and will be incorporated in a new version of the Classification (NCL (11-2022)).

21. The Committee noted that the International Bureau will prepare and publish online the new version of the Classification (NCL (11-2022)), in English and French, by the end of 2021. An early publication will be made available on the NCLPub site, and the list of goods and services in Excel format, in English and French, will be made available on the [electronic forum](#) by the end of June 2021.

22. The Committee invited the International Bureau to take the opportunity of correcting any obvious typing or grammatical errors which it found in the text of the Classification and harmonizing, as far as possible, the use of punctuation.

LENGTH OF THE NCL REVISION PERIOD

23. Discussions were based on project [CE312](#), [Annex 9](#), relating to the length of the NCL revision period.

24. In accordance with Rule 7 of the Rules of Procedure of the Committee of Experts of the Nice Union, “amendments shall enter into force at the end of specified revision periods” and “the Committee of Experts shall determine the length of such periods”.

25. The Committee agreed that the next revision period for amendments to the Classification would last for three years, instead of the current five year period, whilst keeping open the possibility of further modifying the revision cycle if necessary. Therefore, the thirteenth edition of the Nice Classification would enter into force on January 1, 2026 (NCL (13-2026)).

² Article 3(7)(b) of the Nice Agreement: “Decisions concerning the adoption of amendments to the Classification shall require a majority of four-fifths of the countries of the Special Union represented and voting. “Amendment” shall mean any transfer of goods or services from one class to another or the creation of any new class.”

NEXT SESSION OF THE COMMITTEE OF EXPERTS

26. The Committee noted that its thirty-second session would be held in Geneva, at the end of April or beginning of May 2022.

CLOSING OF THE SESSION

27. The Chair closed the session.

28. *The Committee of Experts unanimously adopted this report by electronic means on May 20, 2021.*

[Annexes follow]

ANNEXE I/ANNEX I

LISTE DES PARTICIPANTS/LIST OF PARTICIPANTS

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(dans l'ordre alphabétique des noms français des États)
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[L'annexe II suit/
Annex II follows]

ANNEX II
(see paragraph 5 of this report)

AGENDA

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1. Opening of the session	2
2. Election of a Chair and two Vice-Chairs	3
3. Adoption of the agenda See the present document.	5 (II)
4. Consideration of proposals approved after Vote 1 in NCLRMS See NCLRMS .	8, 9
5. Consideration of proposals pending after Vote 1 in NCLRMS See NCLRMS .	10 - 12
6. New revision procedure with NCLRMS (Nice Classification Revision Management Solution)	
(a) Introduction of Vote 2 See project CE312 , Annex 6.	13, 14
(b) Consideration of a proposal for amendments to the Rules of Procedure of the Committee of Experts See project CE312 , Annex 7.	15, 16 (III)
7. Report on NCL-related IT systems	
(a) NCLPUB Alphabetical list See project CE312 , Annex 8.	17, 18
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ANNEX III

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

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

adopted by the Committee of Experts on September 10, 1973,
and amended on May 28, 1982, November 10, 1995, October 11, 2000,
October 9, 2003, November 22, 2010, May 3, 2017, ~~and~~ May 4, 2018 and April 21, 2021

Rule 1: Application of the General Rules of Procedure

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

Rule 2: Representation and Expenses of Delegations and Representatives

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

Rule 3: Sessions

- (1) The Committee of Experts shall meet in regular sessions once a year on convocation by the Director General.
- (2) The Committee of Experts shall meet in extraordinary session on convocation by the Director General, on his own initiative or at the request of one-fourth of the States members of the Committee of Experts.
- (3) Subcommittees and working groups established by the Committee of Experts shall meet at such times and at such places as may be determined by the Committee of Experts or by the Director General in consultation with the Chair of the subcommittee or working group concerned.

Rule 4: Subcommittees and Working Groups

- (1) When establishing any subcommittee or working group, the Committee of Experts shall determine its terms of reference and the frequency of its sessions.
- (2) The members of a subcommittee or working group established by the Committee of Experts shall be any member States of the Nice Union that have informed the Committee of Experts or the International Bureau of their wish to become members of such subcommittee or working group.
- (3) Observer status in a subcommittee or working group established by the Committee of Experts shall be afforded to
 - (i) any State member of WIPO that has informed the Director General in writing of its wish to acquire such status in such subcommittee or working group,
 - (ii) the African Intellectual Property Organization, the African Regional Intellectual Property Organization, the Benelux Organisation for Intellectual Property and the European Union, and

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

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

Article 3(2)(b)¹ of the Nice Agreement (Geneva Act) shall apply to the following intergovernmental organizations:

African Intellectual Property Organization
African Regional Intellectual Property Organization
Benelux Organisation for Intellectual Property
European Union.

Rule 6: Officers

- (1) The Committee of Experts shall elect a Chair and two Vice-Chairs for two calendar years.
- (2) Any subcommittee or working group established by the Committee of Experts shall elect a Chair and one Vice-Chair.
- (3) Any outgoing Chair or Acting Chair may be immediately re-elected to the office which he has held.
- (4) Where the Chair or Acting Chair is the only member of the delegation of a member State, he may vote in his capacity of delegate.
- (5) Representatives of the intergovernmental organizations referred to in Rule 5 may be elected as officers of the Committee of Experts or of any subcommittee or working group established by the Committee of Experts.

Rule 7: Adoption of Amendments and Other Changes to the Nice Classification²

- (1) The Committee of Experts shall adopt amendments and other changes to the Classification at its regular yearly sessions. Amendments shall enter into force at the end of specified revision periods. The Committee of Experts shall determine the length of such periods and the date at which the amendments will enter into force. In accordance with Article 4(1) of the Nice

¹ Article 3(2)(b) of the Nice Agreement: The Director General shall invite intergovernmental organizations specialized in the field of marks, of which at least one of the member countries is a country of the Special Union, to be represented by observers at meetings of the Committee of Experts.

² Article 3(7)(b) of the Nice Agreement: "Amendment" shall mean any transfer of goods or services from one class to another or the creation of any new class.

Agreement³, such date could not be earlier than six months after the date of dispatch of the corresponding notification to the countries of the Nice Union by the International Bureau. Other changes, as long as they do not entail an amendment, will enter into force on January 1, but not earlier than six months after the date of their adoption, unless the Committee of Experts decided otherwise.

- (2) The Committee of Experts shall be able to take certain decisions by electronic means. Such decisions include the adoption of the reports of its sessions and, without prejudice to Rule 7(1), the adoption of changes and amendments to the Classification ~~which do not entail an amendment~~.

Rule 8: Publication of the Report

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

[Technical Annexes follow]

³ Article 4(1) of the Nice Agreement: Changes decided upon by the Committee of Experts and recommendations of the Committee of Experts shall be notified to the competent Offices of the countries of the Special Union by the International Bureau. Amendments shall enter into force six months after the date of dispatch of the notification. Any other change shall enter into force on a date to be specified by the Committee of Experts at the time the change is adopted.

TECHNICAL ANNEX

[The Technical Annex is available on the Electronic Forum, under Project [CE310](#)
<https://www3.wipo.int/classifications/nice/nclef/public/en>]

[End of Technical Annex and of document]