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

AD HOC WORKING GROUP

**Third Session
Geneva, November 16, 2009**

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

Document prepared by the International Bureau

1. The Annex to this document reproduces draft revised Rules of Procedure for the Committee of Experts of the Nice Union, prepared by the International Bureau for consideration at the third session of the *ad hoc* Working Group, in accordance with the decision taken at its second session, held in Geneva, on October 6, 2008 (see paragraphs 14 to 16 of the Summary by the Chair, document CLIM/WG/2/3).
2. The changes to the Rules of Procedure proposed in the Annex to this document are indicated in track changes mode.
3. The Committee of Experts adopted the Rules of Procedure on September 10, 1973, and amended them on May 28, 1982, November 10, 1995, October 11, 2000, and, the most recent, on October 9, 2003.
4. *The ad hoc Working Group is invited to consider this document and to express its views thereon.*

[Annex follows]

ANNEX

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

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

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

Rule 1: Application of the General Rules of Procedure

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

Rule 2: Representation and Expenses of Delegations and Representatives

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

Rule 3: Sessions

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

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

(3) The Committee of Experts shall be able to take decisions by electronic means. Such decisions include the adoption of the reports of its sessions and the adoption of simple changes to the classification, such as additions to or deletions from the alphabetical list of the Nice Classification.

~~(34)~~ Subcommittees and working groups established by the Committee of Experts shall meet at such times and at such places as may be determined by the Committee of Experts or by the Director General in consultation with the Chairman of the subcommittee or working group concerned.

Rule 4: Subcommittees and Working Groups

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

(2) The members of a subcommittee or working group established by the Committee of Experts shall be ~~any-all~~ member States of the Nice Union that have informed the ~~Director General in writing~~ 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~~ States party to the Paris Convention for the Protection of Industrial Property or members of WIPO that haves informed the Director General in writing of theirs wish to acquire such status in such subcommittee or working group,

(ii) the African Intellectual Property Organization, the African Regional Intellectual Property Organization, ~~and~~ the ~~Benelux Trademark Office~~ Benelux Organization for Intellectual Property and the European Community, 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 Trademark Office~~ Benelux Organization for Intellectual Property
European Community.

¹ Nice Agreement, Article 3(2)(b): 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.

Rule 6: Officers

- (1) The Committee of Experts shall elect a Chair~~man~~ and two Vice-Chair~~men~~ for two calendar years.
- (2) Any subcommittee or working group established by the Committee of Experts shall elect a Chair~~man~~ and one Vice-Chair~~man~~.
- (3) Any outgoing Chair~~man~~ or Acting Chair~~man~~ may be immediately re-elected to the office which he has held.
- (4) Where the Chair~~man~~ or Acting Chair~~man~~ 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 Classification

~~Except in special cases, t~~The Committee of Experts shall adopt amendments, in the sense of Article 3(7)(b) of the Nice Agreement (Geneva Act), and other changes to the Nice Classification at its yearly sessions, shall be adopted at the end of specified revision periods; the length of each period shall be determined by the Committee of Experts. In principle, amendments will enter into force with each new edition of the Nice Classification, whereas other changes will enter into force annually. The Committee of Experts will determine the date of entry into force of each new edition and of other changes adopted, as foreseen in Article 4 of the Nice Agreement.

Rule 8: Publication of the Report

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

Explanatory Notes

Note 01: *Rule 3.* The proposed amendment to this Rule would enable the Committee of Experts to take certain decisions by electronic means, in particular, to adopt soon after a session the report prepared by the International Bureau; this would avoid having to wait until the following session to adopt and publish the final report. Simple changes to the Nice Classification could also be adopted electronically. To this end, the International Bureau is in

the process of creating an electronic forum. Details of the procedure for using the electronic forum in this sense will be discussed by the Committee of Experts.

Note 02: *Rule 4(2)*. The proposed amendment aims at facilitating the procedure for the countries of the Nice Union to become members of a subcommittee or working group established by the Committee of Experts. Instead of expressing their wish to become members to the Director General of WIPO by writing, the countries of the Nice Union would be able to simply mail or email the written communication to the International Bureau (e.g. to the International Classifications and WIPO Standards Service) or inform the Committee of Experts orally at any of its sessions of their wish to become members.

Note 03: *Rule 4(3)(ii)*. The proposed amendment is consequential to the proposed amendment to Rule 5.

Note 04: *Rule 4(3)(iv)*. The proposed amendment would allow interested international non-governmental organizations specialized in the field of trademarks, such as INTA or ECTA, to participate as observers in the sessions of the subcommittees or working groups established by the Committee of Experts on a regular basis.

Note 05: *Rule 5*. The proposed amendment to this Rule consists of adding the African Regional Intellectual Property Organization (ARIPO) and the European Community (EC) to the two organizations already mentioned in that Rule as having observer status in the Committee of Experts. Both newly added organizations, namely ARIPO and the European Community, are intergovernmental organizations specialized in the field of marks, of which at least one of the member States is a member of the Nice Union. Both ARIPO and the EC have competence for the registration of marks and maintain regional offices to that effect. If Rule 5 were to be adopted, the consequence of adding these two organizations would be that they could submit proposals for changes in the Classification in accordance with Article 3(5)² of the Nice Agreement and that their representatives could be elected as officers of the Committee of Experts or of any subcommittee or working group established by the Committee of Experts in accordance with Rule 6(5) of the Rules of Procedure. The second amendment to this Rule concerns the change of the designation “Benelux Trademark Office” to “Benelux Organization for Intellectual Property”, which reflects the coming into force, on September 1, 2006, of this Organization, thereby entering into all the rights and obligations of the former Benelux Trademark Office and Benelux Designs Office.

² Nice Agreement, Article 3(5): Proposals for changes in the Classification may be made by the competent Office of any country of the Special Union, the International Bureau, any intergovernmental organization represented in the Committee of Experts pursuant to paragraph (2)(b) and any country or organization specially invited by the Committee of Experts to submit such proposals.

Note 06: *Rule 7.* The entry into force of changes and amendments remains to be governed by Article 4³ of the Nice Agreement. In accordance with that provision, amendments to the Nice Classification enter into force six months after the date of dispatch of the notification. Any other change enters into force on a date to be specified by the Committee of Experts at the time the change is adopted.

[End of Annex and of document]

³ Nice Agreement, Article 4, Notification, Entry Into Force and Publication of Changes:

(1) 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.

(2) The International Bureau shall incorporate in the Classification the changes which have entered into force. Announcements of those changes shall be published in such periodicals as may be designated by the Assembly referred to in Article 5.