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PCT/CAL/7/4

ORIGINAL: English

DATE: November 30, 1999

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WORLD INTELLECTUAL PROPERTY ORGANIZATION

GENEVA

**INTERNATIONAL PATENT COOPERATION UNION
(PCT UNION)**

**PCT COMMITTEE
FOR ADMINISTRATIVE AND LEGAL MATTERS**

**Seventh Session
Geneva, November 29 to December 3, 1999**

PROPOSED NEW RULE *26ter*

Proposal by the European Patent Office

Rule 26ter

Correction or Addition of Declarations Referred to in Rules 4.17 to 4.19

26ter.1 [As proposed in document PCT/CAL/7/2]

26ter.2 Invitation to Correct Declarations

(a) Where the receiving Office or, ~~if the receiving Office fails to do so,~~ the International Bureau, finds that a declaration referred to in Rules 4.17 to 4.19 is not worded as required by those Rules and, where applicable, signed as required by Rule 4.19 or 26ter.1(b), the receiving Office or the International Bureau, as the case may be, ~~shall~~ may invite the applicant to correct the declaration within a time limit of 16 months from the priority date.

(b) ~~If, in response to an invitation under paragraph (a), the applicant does not, before the expiration of the time limit under Rule 26ter.1(a), submit a notice correcting the declaration, that declaration shall be considered not to have been submitted, and the receiving Office or the International Bureau, as the case may be, shall so declare and shall inform the applicant accordingly.~~ When the corrected declaration following an invitation under paragraph (a) is not filed with or transmitted to the International Bureau prior to the completion of the technical preparations for international publication, the declaration shall not be referred to in that publication.

[Rule 26ter.2, continued]

(Comment: It is proposed to restrict the task under proposed R. 26ter.2 to the IB only because, as the proposal stands now, the IB will check the declarations anyhow which would result in duplication of work; further, the duration of the procedure before the receiving Office could be unduly delayed with negative effect for the timely transmission of the search copy, as the case may be; receiving Offices which wish to check declarations of course should not be prevented of doing so (in particular those Offices where the national procedure is providing the declarations in question, however, other receiving Offices would be faced with an unduly high burden of additional work which they might not be able to cope with. With a view to proposed R.26ter.1 it might be advisable to reconsider if proposed R. 26ter.2 is really necessary at all (overregulation)).

[End of document]