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GENERAL SIMPLIFICATION AND STREAMLINING OF PCT PROCEDURES:

SIGNATURE OF THE INTERNATIONAL APPLICATION
AND RELATED DOCUMENTS

Document prepared by the International Bureau

BACKGROUND

1. At its first session, the Working Group on Reform of the Patent Cooperation Treaty (PCT) discussed, based on documents PCT/R/WG/1/1 and PCT/R/WG/1/7, proposals related to the concept and operation of the designation system; see paragraphs 11 to 19 of the Summary of the Session prepared by the Chair (document PCT/R/WG/1/9) (“first session summary”).¹ In the context of those discussions, it was agreed that the signature requirements under the PCT should be reviewed with a view to further simplifying and streamlining or even eliminating them (see paragraph 13 of the first session summary):

“13. It was agreed that the approach taken in document PCT/R/WG/1/1 in connection with Rules 4, 49*bis* and 90*bis* should be retained, subject to further consideration of the matters mentioned in paragraph 12, above, and to the following:

¹ See WIPO’s Internet site at http://www.wipo.int/pct/en/meetings/reform_wg/index_1.htm.

- (i) [...]
- (ii) a revised draft should include the following alternatives for consideration: (1) eliminate all signature requirements; (2) require the signature of only one applicant where the international application is filed by several applicants (and similarly in the case of the demand); (3) provide for an RO [receiving Office] to waive the need for signature of the international application requirements for papers filed with that Office; (4) provide for an RO to waive the need for a power of attorney where the international application is filed by an agent;

[...]"

ALTERNATIVE PROPOSALS

2. Annexes I and II to this document² contain alternative sets of proposals for amendment³ of the provisions of the PCT Regulations⁴ relating to signature requirements. Other proposals related to the concept and operation of the designation system are set out in document PCT/R/WG/2/2.

3. Annex I sets out proposals for amendment of the Regulations with the aim of *eliminating all signature requirements* under the PCT, as in alternative (1) mentioned in paragraph 13(ii) of the first session summary. Annex II sets out proposals for amendment of the Regulations with the aim of *simplifying and streamlining the present signature requirements* but without eliminating them altogether. Annex II represents a combination of alternatives (2), (3) and (4) mentioned in paragraph 13(ii) of the first session summary. That combination is proposed by the International Bureau because, on reflection, it was felt that each of three latter alternatives, considered on its own, would not result in a coherent and conclusive solution of the problems related to signature requirements.

FIRST ALTERNATIVE: ELIMINATION OF ALL SIGNATURE REQUIREMENTS

4. Under the proposals set out in Annex I to this document, all signature requirements under the PCT would be eliminated. That is, the international application itself could be filed without the need for any signature – whether by the applicant, an agent or a common representative – as could any other document furnished during the course of the international phase to the receiving Office, the International Searching Authority, the International

² This and other working documents for the present session are available on WIPO's Internet site at http://www.wipo.int/pct/en/meetings/reform_wg/reform_wg2.htm.

³ Proposed additions and deletions are indicated, respectively, by underlining and striking through the text concerned. Certain provisions that are not proposed to be amended may be included for ease of reference.

⁴ References in this document to "Articles," "Rules" and "Sections" are, respectively, to those of the Patent Cooperation Treaty (PCT), of the Regulations under the PCT ("the Regulations") and of the Administrative Instructions under the PCT ("the Administrative Instructions"), or to such provisions as proposed to be amended or added, as the case may be. The current texts are available on WIPO's Internet site at <http://www.wipo.int/eng/pct/texts/index.htm>. References to "national law," "national applications," "national Offices," etc., include reference to regional law, regional applications, regional Offices, etc. The current texts are available on WIPO's web site at <http://www.wipo.int/pct/eng/texts/index.htm>.

Preliminary Examining Authority and the International Bureau (such as a demand for international preliminary examination, later elections, withdrawals or any other (general) correspondence). Powers of attorney would also no longer be required.

5. It is noted that certain national Offices have effectively eliminated signature requirements with no disastrous consequence in terms of safeguarding the rights of applicants or of convenient administration of the PCT system.

SECOND ALTERNATIVE: SIMPLIFICATION AND STREAMLINING OF PRESENT SIGNATURE REQUIREMENTS

6. Under the proposals set out in Annex II to this document, the present requirements as to signature would not be eliminated altogether but rather would be simplified and streamlined, along the lines of the suggestions made in paragraph 13(ii), alternatives (2), (3) and (4) of the first session summary.

7. As suggested in paragraph 13(ii), alternative (2), only one signature would be required for the request, the demand, any later election or any withdrawal where the international application is filed by several applicants. As suggested in paragraph 13(ii), alternative (3), even that (limited) signature requirement could be waived, if so wished, by any receiving Office, and by any International Searching Authority, International Preliminary Examining Authority or by the International Bureau. Moreover, as suggested in paragraph 13(ii), alternative (4), any receiving Office, International Searching Authority or International Preliminary Examining Authority, or the International Bureau, could waive the requirement that a power of attorney be furnished where the applicant is, or all applicants are, represented by an agent or where all applicants are represented by a common representative.

NATIONAL PHASE

8. By virtue of Article 27(1), designated Offices would generally be precluded from requiring, in the national phase, a signature on the international application itself or of documents filed during the international phase. This would not of itself, of course, preclude any Office from requiring evidence, where reasonable doubt arises, as to the validity of documents relating to an international application. However, many national laws do require signatures as part of the ordinary national procedure, and signatures could be required, for example, on documents filed in connection with an international application after it has entered the national phase.

9. If such a possible conflict with national requirements were thought to pose a serious problem, consideration might be given to the possibility of amending Rule 51*bis* so as to expressly entitle the national law of a designated State to require the furnishing, for the purposes of the national phase, the signature of any applicant who has not signed the request and who is indicated as an applicant for the purpose of the designation of that State.

10. The Working Group is invited to consider the alternative proposals contained in Annexes I and II to this document.

[Annex I follows]

ANNEX I

PROPOSED AMENDMENTS OF THE PCT REGULATIONS:

SIGNATURE OF THE INTERNATIONAL APPLICATION:
FIRST ALTERNATIVE: ELIMINATION OF ALL SIGNATURE REQUIREMENTS

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Rule 2

Interpretation of Certain Words

2.1 to 2.2*bis* [No change]

2.3 [\[Deleted\]](#) ~~“Signature”~~

~~Whenever the word “signature” is used, it shall be understood that, if the national law applied by the receiving Office or the competent International Searching or Preliminary Examining Authority requires the use of a seal instead of a signature, the word, for the purposes of that Office or Authority, shall mean seal.~~

[COMMENT: The proposed deletion of Rule 2.3 is consequential on the proposed elimination of all signature requirements.]

Rule 4

The Request (Contents)

4.1 *Mandatory and Optional Contents; Signature*

(a) to (c) [No change]

(d) The request need not ~~shall~~ be signed.

[COMMENT: While it would possible simply to delete paragraph (d), that may be problematic in view of the wording of Article 14.1(a)(i): “The receiving Office shall check whether the international application contains any of the following defects, that is to say: (i) it is not signed as provided in the Regulations”]

4.2 *The Petition*

The petition shall be to the following effect and shall preferably be worded as follows:

“The applicant ~~undersigned~~ requests that the present international application be processed according to the Patent Cooperation Treaty.”

[COMMENT: The proposed amendment of Rule 4.2 is consequential on the proposed elimination of the signature requirements with regard to the request (see Rule 4.15, which is proposed to be deleted, below).]

4.3 to 4.14bis [No change]

4.15 ~~[Deleted]~~ *Signature*

~~(a) Subject to paragraph (b), the request shall be signed by the applicant or, if there is more than one applicant, by all of them.~~

~~(b) Where two or more applicants file an international application which designates a State whose national law requires that national applications be filed by the inventor and where an applicant for that designated State who is an inventor refused to sign the request or could not be found or reached after diligent effort, the request need not be signed by that applicant if it is signed by at least one applicant and a statement is furnished explaining, to the satisfaction of the receiving Office, the lack of the signature concerned.~~

[COMMENT: As suggested in alternative (1) in paragraph 13(ii) of the first session summary, it is proposed to delete Rule 4.15 and thus to eliminate all signature requirements with regard to the request. In other words, under this proposal, the request (and thus the international application) could be filed without any signature by the applicant(s) or by an agent or common representative.]

4.16 to 4.18 [No change]

Rule 28

Defects Noted by the International Bureau

28.1 *Note on Certain Defects*

(a) If, in the opinion of the International Bureau, the international application contains any of the defects referred to in Article 14(1)(a)~~(i)~~, (ii) or (v), the International Bureau shall bring such defects to the attention of the receiving Office.

[COMMENT: The proposed amendment of paragraph (a) is consequential on the proposed elimination of the signature requirements with regard to the request (see Rule 4.15, which is proposed to be deleted).]

(b) [No change]

Rule 53

The Demand

53.1 [No change]

53.2 *Contents*

(a) [No change]

(b) The demand need not ~~shall~~ be signed.

[COMMENT: See also Rule 4.1(d), above, the equivalent provision for the request.]

53.3 *The Petition*

The petition shall be to the following effect and shall preferably be worded as follows:

“Demand under Article 31 of the Patent Cooperation Treaty: The applicant ~~undersigned~~ requests that the international application specified below be the subject of international preliminary examination according to the Patent Cooperation Treaty.”

[COMMENT: The proposed amendment of Rule 53.3 is consequential on the proposed elimination of the signature requirements with regard to the demand (see Rule 53.8, which is proposed to be deleted).]

53.4 to 53.7 [No change]

53.8 ~~[Deleted]~~ *Signature*

~~(a) Subject to paragraph (b), the demand shall be signed by the applicant or, if there is more than one applicant, by all applicants making the demand.~~

~~(b) Where two or more applicants file a demand which elects a State whose national law requires that national applications be filed by the inventor and where an applicant for that elected State who is an inventor refused to sign the demand or could not be found or reached after diligent effort, the demand need not be signed by that applicant (“the applicant concerned”) if it is signed by at least one applicant and~~

~~(i) a statement is furnished explaining, to the satisfaction of the International Preliminary Examining Authority, the lack of signature of the applicant concerned, or~~

~~(ii) the applicant concerned did not sign the request but the requirements of Rule 4.15(b) were complied with.~~

[COMMENT: As suggested in alternative (1) in paragraph 13(ii) of the first session summary, it is proposed to delete Rule 53.8 and thus to eliminate all signature requirements with regard to the demand. In other words, under this proposal, the demand could be filed without any signature by the applicant(s) or by any agent or common representative.]

53.9 [No change]

Rule 56

Later Elections

56.1 *Elections Submitted Later than the Demand*

(a) [No change]

(b) ~~[Deleted] Subject to paragraph (c), the notice referred to in paragraph (a) shall be signed by the applicant for the elected States concerned or, if there is more than one applicant for those States, by all of them.~~

(c) ~~[Deleted] Where two or more applicants file a notice effecting a later election of a State whose national law requires that national applications be filed by the inventor and where an applicant for that elected State who is an inventor refused to sign the notice or could not be found or reached after diligent effort, the notice need not be signed by that applicant ("the applicant concerned") if it is signed by at least one applicant and~~

~~(i) a statement is furnished explaining, to the satisfaction of the International Bureau, the lack of signature of the applicant concerned, or~~

~~(ii) the applicant concerned did not sign the request but the requirements of Rule 4.15(b) were complied with, or did not sign the demand but the requirements of Rule 53.8(b) were complied with.~~

[Rule 56.1(c), continued]

[COMMENT: As suggested in alternative (1) in paragraph 13(ii) of the first session summary, it is proposed to delete Rule 56.1(b) and (c) and thus to eliminate all signature requirements with regard to later elections. In other words, under this proposal, later elections could be filed without any signature by the applicant(s) or by an agent or common representative.]

(d) to (f) [No change]

56.2 and 56.3 [No change]

56.4 Form of Later Elections

The notice effecting the later election shall preferably be worded as follows: “In relation to the international application filed with ... on ... under No. ... by ... (applicant) (and the demand for international preliminary examination submitted on ... to ...), the [applicant](#) ~~undersigned~~ elects the following additional State(s) under Article 31 of the Patent Cooperation Treaty: ...”

[COMMENT: The proposed amendment of Rule 56.4 is consequential on the proposed elimination of the signature requirements with regard to later elections (see Rule 56.1(b) and (c), which are proposed to be deleted).]

56.5 [No change]

Rule 60

Certain Defects in the Demand or Elections

60.1 *Defects in the Demand*

(a) If the demand does not comply with the requirements specified in Rules 53.1, 53.2(a)(i) to (iv), 53.2(b), 53.3 to [53.7](#) ~~53.8~~ and 55.1, the International Preliminary Examining Authority shall invite the applicant to correct the defects within a time limit which shall be reasonable under the circumstances. That time limit shall not be less than one month from the date of the invitation. It may be extended by the International Preliminary Examining Authority at any time before a decision is taken.

(b) and (c) [No change]

(d) Where, after the expiration of the time limit under paragraph (a), ~~a signature required under Rule 53.8 or~~ a prescribed indication is lacking in respect of an applicant for a certain elected State, the election of that State shall be considered as if it had not been made.

[COMMENT: The proposed amendment of Rule 60.1 is consequential on the proposed elimination of the signature requirements with regard to the demand (see Rule 53.8, which is proposed to be deleted).]

(e) to (g) [No change]

60.2 *Defects in Later Elections*

(a) to (c) [No change]

(d) Where, in respect of an applicant for a certain elected State, ~~the signature required under Rule 56.1(b) and (c) or~~ the name or address is lacking after the expiration of the time limit under paragraph (a), the later election of that State shall be considered as if it had not been made.

[COMMENT: The proposed amendment of Rule 60.2(d) is consequential on the proposed elimination of the signature requirements with regard to later elections (see Rule 56.1(b) and (c), which are proposed to be deleted).]

Rule 89bis

**Filing, Processing and Transmission of International Applications
and Other Documents in Electronic Form or by Electronic Means**

89bis.1 International Applications

(a) and (b) [No change]

(c) The Administrative Instructions shall set out the provisions and requirements in relation to the filing and processing of international applications filed, in whole or in part, in electronic form or by electronic means, including but not limited to, provisions and requirements in relation to acknowledgment of receipt, procedures relating to the according of an international filing date, physical requirements and the consequences of non-compliance with those requirements, ~~signature of documents~~, means of authentication of documents and of the identity of parties communicating with Offices and authorities, and the operation of Article 12 in relation to the home copy, the record copy and the search copy, and may contain different provisions and requirements in relation to international applications filed in different languages.

[COMMENT: The proposed amendment of Rule 89bis.1(c) is consequential on the proposed elimination of all signature requirements under the PCT.]

(d) and (e) [No change]

89bis.2 and 89bis.3 [No change]

Rule 90

Agents and Common Representatives

90.1 to 90.3 [No change]

90.4 *Manner of Appointment of Agent or Common Representative*

(a) The appointment of an agent or, if there are two or more applicants, of a common agent or common representative, shall be effected in ~~by the applicant signing~~ the request, the demand or a separate power of attorney. ~~Where there are two or more applicants, the appointment of a common agent or common representative shall be effected by each applicant signing, at his choice, the request, the demand or a separate power of attorney.~~

[COMMENT: While an agent or a common representative would still have to be appointed in the same way as today (that is, in the request, the demand or a separate power of attorney), signatures would not be any longer required to effect such appointment.]

(b) [No change]

(c) If ~~the separate power of attorney is not signed, or if~~ the required separate power of attorney is missing, or if the indication of the name or address of the appointed person does not comply with Rule 4.4, the power of attorney shall be considered non-existent unless the defect is corrected.

[COMMENT: The proposed amendment of paragraph (c) is consequential on the proposed elimination of all signature requirements.]

90.5 *General Power of Attorney*

(a) Appointment of an agent in relation to a particular international application may be effected by referring in the request, the demand or a separate notice to an existing separate power of attorney appointing that agent to represent the applicant in relation to any international application which may be filed by that applicant (i.e., a “general power of attorney”), provided that:

(i) [No change]

(ii) a copy of it is attached to the request, the demand or the separate notice, as the case may be; ~~that copy need not be signed.~~

[COMMENT: The proposed amendment of item (ii) is consequential on the proposed elimination of all signature requirements.]

(b) [No change]

90.6 *Revocation and Renunciation*

(a) to (c) [No change]

[Rule 90.5, continued]

(d) An agent or a common representative may renounce his appointment by a notification ~~signed by him~~.

[COMMENT: Proposed amendment of paragraph (d) is consequential on the proposed elimination of all signature requirements.]

(e) [No change]

Rule 90bis

Withdrawals

90bis.1 to 90bis.4 [No change]

90bis.5 [Deleted] *Signature*

~~(a) Any notice of withdrawal referred to in Rules 90bis.1 to 90bis.4 shall, subject to paragraph (b), be signed by the applicant. Where one of the applicants is considered to be the common representative under Rule 90.2(b), such notice shall, subject to paragraph (b), require the signature of all the applicants.~~

~~(b) Where two or more applicants file an international application which designates a State whose national law requires that national applications be filed by the inventor and where an applicant for that designated State who is an inventor could not be found or reached after diligent effort, a notice of withdrawal referred to in Rules 90bis.1 to 90bis.4 need not be signed by that applicant (“the applicant concerned”) if it is signed by at least one applicant and~~

~~(i) a statement is furnished explaining, to the satisfaction of the receiving Office, the International Bureau or the International Preliminary Examining Authority, as the case may be, the lack of signature of the applicant concerned, or~~

[Rule 90bis.5(b), continued]

~~(ii) in the case of a notice of withdrawal referred to in Rule 90bis.1(b), 90bis.2(d) or 90bis.3(e), the applicant concerned did not sign the request but the requirements of Rule 4.15(b) were complied with, or~~

~~(iii) in the case of a notice of withdrawal referred to in Rule 90bis.4(b), the applicant concerned did not sign the demand but the requirements of Rule 53.8(b) were complied with, or did not sign the later election concerned but the requirements of Rule 56.1(c) were complied with.~~

[COMMENT: The proposed deletion of Rule 90bis.5 is consequential on the proposed elimination of all signature requirements. In the absence of any replacement provision, the effect of this deletion would be to permit one co-applicant to withdraw an international application, etc., without (or even contrary to) the agreement of the other co-applicants.]

90bis.6 and 90bis.7 [No change]

Rule 92

Correspondence

92.1 *Need for Letter and for Signature*

(a) Any paper submitted by the applicant in the course of the international procedure provided for in the Treaty and these Regulations, other than the international application itself, shall, if not itself in the form of a letter, be accompanied by a letter identifying the international application to which it relates. ~~The letter shall be signed by the applicant.~~

(b) If the requirements provided for in paragraph (a) ~~is~~ ~~are~~ not complied with, the applicant shall be informed as to the non-compliance and invited to remedy the omission within a time limit fixed in the invitation. The time limit so fixed shall be reasonable in the circumstances; even where the time limit so fixed expires later than the time limit applying to the furnishing of the paper (or even if the latter time limit has already expired), it shall not be less than 10 days and not more than one month from the mailing of the invitation. If the omission is remedied within the time limit fixed in the invitation, the omission shall be disregarded; otherwise, the applicant shall be informed that the paper has been disregarded.

(c) Where non-compliance with the requirements provided for in paragraph (a) has been overlooked and the paper taken into account in the international procedure, the non-compliance shall be disregarded.

[COMMENT: The proposed amendment of Rule 92.1 is consequential on the proposed elimination of all signature requirements.]

92.2 to 92.4 [No change]

[Annex II follows]

ANNEX II

PROPOSED AMENDMENTS OF THE PCT REGULATIONS:

SIGNATURE OF THE INTERNATIONAL APPLICATION:
SECOND ALTERNATIVE: SIMPLIFICATION AND STREAMLINING OF
PRESENT SIGNATURE REQUIREMENTS

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Rule 4

The Request (Contents)

4.1 to 4.14 [No change]

4.15 *Signature*

(a) ~~The Subject to paragraph (b), the~~ request shall be signed by the applicant or, if there is more than one applicant, by at least one ~~all~~ of them.

[COMMENT: As suggested in alternative (2) in paragraph 13(ii) of the first session summary, it is proposed that, where the international application is filed by two or more applicants, the signature of one of them would be sufficient for the purposes of the international phase.]

~~(b) Where two or more applicants file an international application which designates a State whose national law requires that national applications be filed by the inventor and where an applicant for that designated State who is an inventor refused to sign the request or could not be found or reached after diligent effort, the request need not be signed by that applicant if it is signed by at least one applicant and a statement is furnished explaining, to the satisfaction of the receiving Office, the lack of the signature concerned.~~

[COMMENT: The proposed deletion of paragraph (b) is consequential on the proposed amendment of paragraph (a).]

4.16 to 4.18 [No change]

Rule 26

**Checking by, and Correcting Before, the Receiving Office of
Certain Elements of the International Application**

26.1 to 26.3~~ter~~ [No change]

26.3~~quater~~ Checking of Signature Requirements Under Article 14(1)(a)(i)

Any receiving Office may waive the requirement that the request comply with Rule 4.15, in which case that Office shall not be required to issue the invitation under Article 14.1(b) to correct a defect under Rule 4.15 and the non-compliance with that Rule shall be disregarded.

[COMMENT: As suggested in alternative (3) in paragraph 13(ii) of the first session summary, it is proposed that, where a receiving Office so wishes, it could waive the signature requirements under Rule 4.15 as proposed to be amended (see above), in which case no signature at all – whether of (any of) the applicant(s) or from any agent or common representative – would be required in relation to the request during the international phase.]

26.4 to 26.6 [No change]

Rule 53

The Demand

53.1 to 53.7 [No change]

53.8 *Signature*

(a) ~~The Subject to paragraph (b), the~~ demand shall be signed by the applicant or, if there is more than one applicant, by at least one of the them ~~all applicants making the demand.~~

[COMMENT: As suggested in alternative (2) in paragraph 13(ii) of the first session summary, it is proposed that, where the demand is filed by two or more applicants, the signature of one of them would be sufficient. Note that it would not be required that the applicant signing the demand is applicant for a particular elected State, so that, for example, an applicant who is applicant/inventor for the US only could sign the demand even if the US is not elected. Note further that it is not proposed to amend Rule 54.2, so that, as at present, the applicant or, if there are several applicants, at least one of them must have the right to make the demand, that is, be a national or resident of a Contracting State bound by Chapter II. However, it would not be required that the applicant who signs the demand has the right to make the demand, so that the demand could be signed by an applicant who does not have the right to make a demand.]

~~(b) Where two or more applicants file a demand which elects a State whose national law requires that national applications be filed by the inventor and where an applicant for that elected State who is an inventor refused to sign the demand or could not be found or reached after diligent effort, the demand need not be signed by that applicant (“the applicant concerned”) if it is signed by at least one applicant and~~

~~(i) a statement is furnished explaining, to the satisfaction of the International Preliminary Examining Authority, the lack of signature of the applicant concerned, or~~

[Rule 53.8(b), continued]

~~(ii) the applicant concerned did not sign the request but the requirements of Rule 4.15(b) were complied with.~~

[COMMENT: The proposed deletion of paragraph (b) is consequential on the proposed amendment of paragraph (a).]

53.9 [No change]

Rule 56

Later Elections

56.1 *Elections Submitted Later than the Demand*

(a) [No change]

(b) ~~The Subject to paragraph (e), the~~ notice referred to in paragraph (a) shall be signed by the applicant ~~for the elected States concerned~~ or, if there is more than one ~~applicant for those States~~, by at least one ~~all~~ of them.

[COMMENT: As suggested in alternative (2) in paragraph 13(ii) of the first session summary, it is proposed that, where there is more than one applicant, the later election could be signed by just one of them. Note that it would not be required that the applicant signing the later election is applicant for the particular elected State, so that, for example, an corporate applicant who is applicant for all States except US could sign the notice effecting the later election of the US.]

(c) ~~[Deleted] Where two or more applicants file a notice effecting a later election of a State whose national law requires that national applications be filed by the inventor and where an applicant for that elected State who is an inventor refused to sign the notice or could not be found or reached after diligent effort, the notice need not be signed by that applicant (“the applicant concerned”) if it is signed by at least one applicant and~~

~~(i) a statement is furnished explaining, to the satisfaction of the International Bureau, the lack of signature of the applicant concerned, or~~

[Rule 56.1(c), continued]

~~(ii) the applicant concerned did not sign the request but the requirements of Rule 4.15(b) were complied with, or did not sign the demand but the requirements of Rule 53.8(b) were complied with.~~

[COMMENT: The proposed deletion of paragraph (c) is consequential on the proposed amendment of paragraph (b).]

(d) to (f) [No change]

56.2 to 56.5 [No change]

Rule 60

Certain Defects in the Demand or Elections

60.1 *Defects in the Demand*

(a) [No change]

(a-bis) Any International Preliminary Examining Authority may waive the requirement that the demand comply with Rule 53.8, in which case that Authority shall not be required to issue the invitation under paragraph (a) to correct a defect under that Rule and the non-compliance with that Rule shall be disregarded.

[COMMENT: Similar to the proposed amendment of Rule 26.3 (see proposed new Rule 26.3*quater*, above), it is also proposed, along the lines of what has been suggested in alternative (3) in paragraph 13(ii) of the first session summary, to enable the International Preliminary Examining Authority, if it so wishes, to waive the signature requirements under Rule 53.8 as proposed to be amended (see above), in which case no signature at all – whether from (any of) the applicant(s) or from any agent or common representative – would be required for the demand.]

(b) and (c) [No change]

[Rule 60.1, continued]

(d) Where, after the expiration of the time limit under paragraph (a), ~~a signature required under Rule 53.8 or~~ a prescribed indication is lacking in respect of an applicant for a certain elected State, the election of that State shall be considered as if it had not been made.

[COMMENT: Proposed amendment of paragraph (d) is consequential on the proposed amendment of Rule 53.8 (see above). Under that Rule as proposed to be amended, where there are several applicants, the signature of just one of them is sufficient to elect all designated States, so that the lack of the signature of an applicant for a certain elected State should not have any consequences.]

(e) to (g) [No change]

60.2 *Defects in Later Elections*

(a) [No change]

(a-bis) The International Bureau may waive the requirement that the later election comply with Rule 56.1(b) and (c), in which case that Bureau shall not be required to issue the invitation under paragraph (a) to correct a defect under that Rule and the non-compliance with that Rule shall be disregarded.

[COMMENT: Similarly to the proposed amendment of Rule 26.3 (see proposed new Rule 26.3*quater*, above), it is proposed, along the lines of what has been suggested in alternative (3) in paragraph 13(ii) of the first session summary, to enable the International Bureau, if it so wishes, to waive the signature requirements under Rule 56.1(b) and (c) as proposed to be amended (see above), in which case no signature at all – whether from (any of) the applicant(s) or from any agent or common representative – would be required to effect a later election.]

[Rule 60.2, continued]

(b) and (c) [No change]

(d) Where, in respect of an applicant for a certain elected State, ~~the signature required under Rule 56.1(b) and (e) or~~ the name or address is lacking after the expiration of the time limit under paragraph (a), the later election of that State shall be considered as if it had not been made.

[COMMENT: Proposed amendment of paragraph (d) is consequential on the proposed amendment of Rule 56.1(b) (see above). Under that Rule as proposed to be amended, where there are several applicants, the signature of just one of them is sufficient to submit a notice of later election of any designated State, so that the lack of the signature of an applicant for a certain elected State should not have any consequences.]

Rule 90

Agents and Common Representatives

90.1 to 90.3 [No change]

90.4 *Manner of Appointment of Agent or Common Representative*

(a) to (c) [No change]

(d) Any receiving Office, any International Searching Authority, any International Preliminary Examining Authority and the International Bureau may waive the requirement provided in paragraph (b) that a separate power of attorney be submitted to it, in which case paragraph (c) shall not apply and any defect under that paragraph shall be disregarded.

[COMMENT: As has been suggested in alternative (4) in paragraph 13(ii) of the first session summary, it is proposed to enable any receiving Office, International Searching Authority, International Preliminary Examining Authority and the International Bureau, if so wished, to waive the requirement that a power of attorney is furnished where the applicant is represented by an agent, or where several applicants are represented by a common agent or a common representative.]

90.5 *General Power of Attorney*

(a) and (b) [No change]

(c) If the general power of attorney has not been deposited in accordance with paragraph (a)(i), or if the required copy of the general power of attorney is not attached in accordance with paragraph (a)(ii), the power of attorney shall be considered non-existent unless the defect is corrected.

[COMMENT: It is proposed to add new paragraph (c), modeled after present Rule 90.4(c), so as to clarify that a general power of attorney may be considered non-existent if any of the requirements referred to in paragraph (a) is not complied with and that defect is not corrected.]

(d) Any receiving Office, any International Searching Authority, any International Preliminary Examining Authority and the International Bureau may waive the requirements provided in paragraph (a)(i) and (ii), where applicable, in which case paragraph (c) shall not apply and any defect under that paragraph shall be disregarded.

[COMMENT: See the Comment on proposed new Rule 90.4(d).]

90.6 [No change]

Rule 90bis

Withdrawals

90bis.1 to 90bis.4 [No change]

90bis.5 *Signature*

(a) Any notice of withdrawal referred to in Rules 90bis.1 to 90bis.4 shall, subject to paragraph (b), be signed by the applicant or, if there is more than one applicant, by at least one them. ~~Where one of the applicants is considered to be the common representative under Rule 90.2(b), such notice shall, subject to paragraph (b), require the signature of all the applicants.~~

[COMMENT: Along the lines of what has been suggested in alternative (2) in paragraph 13(ii) of the first session summary, it is proposed that, where the international application is filed by two or more applicants, the signature of one of them is sufficient for a withdrawal under Rule 90bis. In the absence of any replacement provision, the effect of this deletion would be to permit one co-applicant to withdraw an international application, etc. without (even contrary to) the agreement of the other co-applicant(s).]

(b) ~~[Deleted] Where two or more applicants file an international application which State whose national law requires that national applications be filed by the inventor and where an applicant for that designated State who is an inventor could not be found or reached after diligent effort, a notice of withdrawal referred to in Rules 90bis.1 to 90bis.4 need not be signed by that applicant (“the applicant concerned”) if it is signed by at least one applicant and~~

[Rule 90bis.5(b), continued]

~~(i) a statement is furnished explaining, to the satisfaction of the receiving Office, the International Bureau or the International Preliminary Examining Authority, as the case may be, the lack of signature of the applicant concerned, or~~

~~(ii) in the case of a notice of withdrawal referred to in Rule 90bis.1(b), 90bis.2(d) or 90bis.3(e), the applicant concerned did not sign the request but the requirements of Rule 4.15(b) were complied with, or~~

~~(iii) in the case of a notice of withdrawal referred to in Rule 90bis.4(b), the applicant concerned did not sign the demand but the requirements of Rule 53.8(b) were complied with, or did not sign the later election concerned but the requirements of Rule 56.1(c) were complied with.~~

[COMMENT: The proposed deletion of paragraph (b) is consequential on the proposed amendment of paragraph (a).]

90bis.6 and 90bis.7 [No change]

Rule 92

Correspondence

92.1 *Need for Letter and for Signature*

(a) and (b) [No change]

(b-bis) Any national Office or intergovernmental organization may waive the signature requirement provided for in paragraph (a) in which case that Office or intergovernmental organization shall not be required to issue the invitation under paragraph (b) and the non-compliance with that signature requirement shall be disregarded.

[COMMENT: Along the lines of what has been suggested in alternative (4) in paragraph 13(ii) of the first session summary, it is proposed to enable any receiving Office, International Searching Authority, International Preliminary Examining Authority and the International Bureau, if so wishes, to waive the requirement that every letter sent to it must be signed.]

(c) [No change]

92.2 to 92.4 [No change]

[End of Annex and of document]