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**DRAFT REGULATIONS UNDER THE DRAFT PATENT LAW TREATY:
WORKING DOCUMENT**

prepared by the International Bureau

INTRODUCTION

1. The present document contains a revised version of the Regulations under the draft Patent Law Treaty ("PLT"). As agreed at the second session of the SCP, this document, together with document SCP/3/7 which contains the draft PLT, consists of the Working Document for the third session of the SCP. It includes all of the changes incorporated in document SCP/3/2, which take into account the views expressed in the Standing Committee on the Law of Patents at its first session, first part (June 15 to 19, 1998) and second part (November 16 to 20, 1998), and at its second session (April 12 to 23, 1999). In addition, the present document contains a number of drafting suggestions by the International Bureau, which are intended to make the draft as clear, accurate and consistent as possible. The suggestions in the present document supercede the suggestion contained in document SCP/3/2. Notes on the provisions of the draft PLT and Regulations are contained in document SCP/3/3.

2. Suggestions for changes in the text which has been adopted by the SCP, as well as International Bureau proposals as compared to the provisions presented in document SCP/2/3 which were referred to the International Bureau for study, are presented as follows:

(i) provisions which have been adopted by the SCP are indicated within a frame, without underlines or strike-throughs,

(ii) text from document SCP/2/3 which is merely moved to a different location without change in substance, as well as mere consequential changes, are not highlighted,

(iii) redrafted text for provisions referred to the International Bureau is underlined, and

(iv) text of non-adopted provisions which appeared in document SCP/2/3 but which is omitted from the present document is shown as struck-through.

3. For reference, provisions which have been adopted by the SCP are indicated within a frame. As agreed at the first session, first part, such adopted provisions are closed for further discussion, except at the express request of a Member of the Standing Committee or to approve consequential modifications suggested by the International Bureau when redrafting other provisions. Where a modification has been made in the adopted text, the changes in the text are highlighted within the frame. Unless otherwise specified in the document, these changes are consequences of redrafting other provisions referred to the International Bureau for further study or for drafting improvements. Commentaries on adopted provisions in which the International Bureau suggests substantial modifications are provided in footnotes of this document.

4. A study with regard to the Interface between the Draft Patent Law Treaty and the Patent Cooperation Treaty, which forms the basis for the change to Article 5(1), (2) and (6) suggested in the present document, is contained in document SCP/3/4.

DRAFT REGULATIONS

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DRAFT REGULATIONS

Rule 1

Abbreviated Expressions

(1) [*Treaty*; *Article*] (a) In these Regulations, the word “Treaty” means the Patent Law Treaty.

(b) In these Regulations, the word “Article” refers to the specified Article of the Treaty.

(2) [*Abbreviated Expressions Defined in the Treaty*] The abbreviated expressions defined in Article 1 for the purposes of the Treaty shall have the same meaning for the purposes of the Regulations.

Rule 2

Details Concerning Filing Date Under Article 4

(1) [*Time Limit Under Article 4(3)*] The time limit referred to in Article 4(3) shall be not less than two months from the date of the notification ~~under~~ referred to in that Article.

(2) [*Time Limit Under Article 4(4)(b)*] The time limit referred to in Article 4(4)(b) shall be:

(i) subject to item (ii), the time limit applied under paragraph (1);

(ii) where a notification under Article 4(3) has not been made because indications allowing the applicant to be contacted by the Office have not been filed, not less than two months from the date on which one or more elements referred to in Article 4(1)(a) were first received by the Office.

(3) [*Time Limits Under Article 4(6)(a) and (b)*] The time limits referred to in Article 4(6)(a) and (b) shall be:

(i) where a notification has been made under Article 4(5), not less than two months from the date of the notification;

(ii) where a notification has not been made, not less than two months from the date on which one or more elements referred to in Article 4(1)(a) were first received by the Office.

[Rule 2, continued]

(4) [*Requirements Under Article 4(6)(b)*] Any Contracting Party may, subject to Rule 4, require that, for the filing date to be determined under Article 4(6)(b):

(i) a copy of the earlier application be filed within the time limit applicable under paragraph (3);

(ii) a copy of the earlier application, and the date of filing of the earlier application, certified as correct by the Office with which the earlier application was filed, be filed upon invitation by the Office, within a time limit which shall be not less than four months from the date of that invitation, or the time limit applicable under Rule 4(1), whichever expires earlier;

(iii) where the earlier application is not in a language accepted by the Office, a translation of the earlier application be filed within the time limit applicable under paragraph (3);

(iv) the missing part of the description or missing drawing be completely contained in the earlier application;

~~and, at the option of the Contracting Party, either~~¹

[Rule 2(4), continued]

¹ The International Bureau recommends this modification, which would allow a Contracting Party to require both items (v) and (vi), in order to simplify procedures and the drafting of the Treaty. There seems to be no obvious justification for making items (v) and (vi) alternatives.

(v) the application, at the time of filing, contained an indication that the contents of the earlier application were incorporated by reference in the application; ~~or~~

(vi) an indication be filed within the time limit applicable under paragraph (3) as to where, in the earlier application or in the translation referred to in item (iii), the missing part of the description or the missing drawing is contained.

(5) [*Requirements Under Article 4(7)(a)*] (a) The reference to the previously filed application ~~under~~ referred to in Article 4(7)(a) shall indicate that, for the purposes of the filing date, the description and any drawings are replaced by the reference to the previously filed application, the number of that application, and the Office with which that application was filed. A Contracting Party may require that the reference also indicate the filing date of the previously filed application.

(b) Any Contracting Party may, subject to Rule 4, require that:

(i) a copy of the previously filed application and, where the earlier application is not in a language accepted by the Office, a translation of that previously filed application, be filed with the Office within a time limit which shall be not less than two months from the date on which the application containing the reference referred to in Article 4(7)(a) was received by the Office;

[Rule 2(5)(b), continued]

(ii) a certified copy of the previously filed application be filed with the Office ~~either~~, where the priority of the previously filed application is claimed, in accordance with Article 5(5), or, where the priority of the previously filed application is not claimed, within a time limit which shall be not less than four months from the date of the receipt of the application containing the reference referred to in Article 4(7)(a).

(6) [*Exceptions Under Article 4(8)(ii)*] The types of applications referred to in Article 4(8)(ii) shall be:

(i) a divisional applications;

(ii) ~~an~~ applications for a continuation or a continuation-in-part.

Rule 3

Additional Permitted Requirements Under Article 5(1)

[To be deleted, with consequential renumbering of Rules, if the recommendations concerning Article 5(1) are accepted by the SCP.]

Rule 4

*Availability of ~~Priority Document~~ Earlier Application Under Article 5(75)(e) and Rule 2(~~34~~)
and (~~45~~)(b)*

(1) [*Copy of Earlier Application Under Article 5(5)*] ~~(a)~~ Subject to paragraph (3), a Contracting Party may require that a copy of the earlier application referred to in Article 5(5) be filed with the Office within a time limit which shall be not less than 16 months from the filing date of that earlier application or, where there is more than one such earlier application, from the earliest filing date of those earlier applications.

(2) [*Certification*] Subject to paragraph (3), a ~~A~~ Contracting Party may require that the copy referred to in paragraph (1) and the date of filing of the earlier application be certified as correct by the Office with which the earlier application was filed.

(3) [*Availability of Earlier Application*] No Contracting Party shall require the filing of a copy or a certified copy of the earlier application or a certification of the filing date, as referred to in paragraphs (1) and (2), and Rule 2(4) and (5)(b), where the earlier application was filed with its Office, or is available to that Office, in a legally accepted electronic format, from a digital library which is accepted by that Office.

[Rule 4, continued]

(4) [*Translation*] Where the earlier application is not in a language accepted by the Office and the validity of the priority claim is relevant to the determination of whether the invention concerned is patentable, the Contracting Party may require that a translation of the earlier application referred to in paragraph (1) be filed by the applicant, upon invitation by the Office, within a time limit which shall be not less than two months from the date of that invitation, and not less than the time limit, if any, applied under that paragraph.

Rule 5

*Evidence Under Articles 5(6), 7(4)(c) [and 11(6)] and
Rules 7(5), 16(5), 17(7), 18(7) and 19(5)*

Where the Office notifies the applicant, owner or other person that evidence is required under Article 5(6), 7(4)(c) [or 11(6)], or Rule 7(5), 16(5), 17(7), 18(7) or 19(5), the notification shall state the reason of the Office for doubting the veracity of the matter, indication or signature or other means of self-identification, or the accuracy of the translation, as the case may be.

Rule 6

Time Limits Concerning the Application Under Article 5

(1)² [*Time Limit Under Article 5(7)*] ~~(a) Subject to subparagraph (b),~~ The time limit referred to in Article 5(7) shall be not less than two months from the date of the notification referred to in Article 5(7).

~~(b) The time limit referred to in Article 5(7) for the correction of a priority claim shall be not less than the time limit applicable under the Patent Cooperation Treaty to an international application for the correction of a priority claim.~~

(2) [*Time Limit Under Article 5(8)*] The time limit referred to in Article 5(8) shall be:

(i) subject to item (ii), the time limit applied under paragraph (1)~~(a)~~;

(ii) where a notification under Article 5(7) has not been made because indications allowing the applicant to be contacted by the Office have not been filed, not less than three months from the ~~earliest~~ date on which one or more of the elements referred to in Article 4(1)(a) were first received by the Office;

~~²(iii) where paragraph (2)(b) applies, the time limit under that paragraph.~~

² The International Bureau recommends that this modification be made as a consequence of moving the provisions with respect to correction of priority claims from Article 5 to Article 13.

Rule 7

Details Concerning Representation Under Article 6

[(1) [*Other Procedures Under Article 6(2)(v)*] The other procedures referred to in Article 6(2)(v) for which a Contracting Party may not require appointment of a representative are:

(i) the filing of a copy of an earlier application under Rule 2(4);

(ii) the filing of a copy of a previously filed application under Rule 2(5)(b).]

(2) [*Appointment of Representative*] (a) A Contracting Party shall accept that the appointment of a representative be filed with the Office in:

(i)³ a separate communication (hereinafter referred to as a “power of attorney”) signed by the applicant, owner or other interested person and indicating the name and address of the representative; or, at ~~his~~ that person’s option,

(ii) the request Form or format referred to in Article 5(2), signed by the applicant.

³ The modification is recommended by the International Bureau in order to clarify that the option is at the choice of the applicant, owner or other interested person.

[Rule 7(2), continued]

(b) A single power of attorney shall be sufficient even where it relates to more than one application or patent of the same person, or to one or more applications and one or more patents of the same person, provided that all applications and patents concerned are identified in the single power of attorney. A single power of attorney shall also be sufficient even where it relates, subject to any exception indicated by the appointing person, to all existing and future applications or patents of that person. The Office may require that, where that single power of attorney is filed on paper or by other means permitted by the Office, a separate copy thereof be filed for each application and patent to which it relates.

~~⁴(3) — [Power of Attorney Form or Format] (a) A Contracting Party may require that, where a power of attorney is in a separate communication as referred to in paragraph (2)(a)(i), it be presented on a power of attorney Form or in a format prescribed by that Contracting Party.~~

~~(b) — Notwithstanding subparagraph (a), a Contracting Party shall accept the presentation of a power of attorney, filed on paper, if it is presented on a Form or in a format which corresponds to the power or attorney Form or format established under Rule 21(1)(a)(i).~~

⁴ The International Bureau recommends that this paragraph be deleted, since the provision is already covered by draft Article 7(1) and (3).

[Rule 7, continued]

(4 3) [*Translation of Power of Attorney*] A Contracting Party may require that, if the power of attorney is not in a language accepted by the Office, it be accompanied by a translation.

(5 4) [*Evidence*] A Contracting Party may require that evidence be filed with the Office where the Office may reasonably doubt the veracity of any indication contained in any communication referred to in paragraph ~~(3)~~(2)(a)(i).

(6 5) [*Time Limit Under Article 6(5)*] The time limit referred to in Article 6(5) shall be not less than two months from the date of the notification under that Article.

(7 6) [*Time Limit Under Article 6(6)*] The time limit referred to in Article 6(6) shall be:

(i) subject to item (ii), the time limit applied under paragraph (6 5);

(ii) where a notification ~~under~~ referred to in Article 6(5) has not been made because indications allowing the applicant, owner or other interested person to be contacted by the Office have not been filed, the time limit to comply with the requirements and to make observations under that Article shall be not less than three months from the date on which the procedure referred to in that Article was commenced.

Rule 8

Filing of Communications Under Article 7(1)

[(1)⁵ [*Communications Filed on Paper*] During a period of 10 years from the date of the entry into force of this Treaty, A a Contracting Party shall permit the filing of communications on paper. After that period has expired, any Contracting Party may, subject to Article 7(1)(d), exclude the filing of communications on paper.]

(2)⁶ [*Communications Filed in Electronic Form or by Electronic Means*] (a) Where a Contracting Party permits the filing of communications in electronic form or by electronic means with its Office in a particular language, including the filing of communications by telegraph, teleprinter, telefacsimile or other like means, and there are requirements applicable to that Contracting Party under the Patent Cooperation Treaty in relation to communications filed in electronic form or by electronic means in that language, the Office shall permit the filing of communications in electronic form or by electronic means in the said language in accordance with those requirements.

⁵ In addition to the suggestions made in document SCP/3/2, the International Bureau further recommends that the words “subject to Article 7(1)(d)” be inserted. The square brackets around “10” are deleted, since the whole paragraph is already placed within square brackets.

⁶ The modification recommended by the International Bureau is intended to clarify that this provision applies to a Contracting Party to which the relevant requirements under the PCT are applicable.

[Rule 8(2), continued]

(b) Any Contracting Party which permits the filing of communications in electronic form or by electronic means with its Office shall notify the International Bureau of the requirements under its national law relating to such filing. Any such notification shall be published by the International Bureau in the language in which it is notified and in the languages in which authentic and official languages of the Treaty are established under Article 24.

(c) Where a Contracting Party permits the filing of communications by telegraph, teleprinter, telefacsimile or other like means under subparagraph (a), it may require that the original of any document which was transmitted by such means, accompanied by a letter identifying that earlier transmission, be filed on paper with the Office within a time limit which shall be not less than one month from the date of the transmission.

(3)⁷ [*Copies, Filed in Electronic Form or by Electronic Means, of Communications Filed on Paper*] (a) Where a Contracting Party permits the filing of a copy, in electronic form or by electronic means, of a communication filed on paper in a language accepted by the Office, and there are requirements applicable to that Contracting Party under the Patent Cooperation Treaty in relation to the filing of such copies of communications, the Office shall permit the filing of copies of communications in electronic form or by electronic means, in accordance with those requirements.

[Rule 8(3), continued]

(b) Paragraph (2)(b) shall apply, *mutatis mutandis*, to copies, in electronic form or by electronic means, of communications filed on paper.

⁷ The modification recommended by the International Bureau is to clarify that this provision applies to a Contracting Party to which the relevant requirements under the PCT are applicable.

Rule 9

Details Concerning the Signature Under Article 7(4)

(1) [*Indications Accompanying Signature*] A Contracting Party may require that the signature of the natural person who signs be accompanied by:

(i) an indication in letters of the family or principal name and the given or secondary name or names of that person or, at the option of that person, of the name or names customarily used by the said person;

(ii) an indication of the capacity in which that person signed, where such capacity is not obvious from reading the communication.

(2) [*Date of Signing*] A Contracting Party may require that a signature be accompanied by an indication of the date on which the signing was effected. Where that indication is required but is not supplied, the date on which the signing is deemed to have been effected shall be the date on which the communication bearing the signature was received by the Office or, if the Contracting Party so permits, a date earlier than the latter date.

(3) [*Signature of Communication on Paper*] Where a communication to the Office of a Contracting Party is on paper and a signature is required, that Contracting Party:

[Rule 9(3), continued]

(i) shall, subject to item (iii), accept a handwritten signature;

(ii) may permit, instead of a handwritten signature, the use of other forms of signature, such as a printed or stamped signature, or the use of a seal or of a bar-coded label;

(iii) may, where the natural person who signs the communication is a national of the Contracting Party and such person's address is on its territory, or where the legal entity on behalf of which the communication is signed is organized under its law and has either a domicile or a real and effective industrial or commercial establishment on its territory, require that a seal be used instead of a handwritten signature.

(4) [*Signature of Communications Filed in Electronic Form or by Electronic Means Resulting in Graphic Representation*] Where a Contracting Party permits the filing of communications in electronic form or by electronic means, it shall consider ~~the~~ such a communication signed if a graphic representation of a signature accepted by that Contracting Party under paragraph (3) appears on that communication as received by the Office of that Contracting Party.

[Rule 9(5), continued]

(5)⁸ [Signature of Communications Filed in Electronic Form Not Resulting in Graphic Representation of Signature Electronic Signature] (a) ~~Subject to subparagraph (b), a~~ Where a Contracting Party permits the filing of communications in electronic form, and a graphic representation of a signature accepted by that Contracting Party under paragraph (3) does not appear on such a communication as received by the Office of that Contracting Party, the Contracting Party may require that a ~~the communication filed in electronic form or by electronic means~~ be signed using an electronic a signature in electronic form as prescribed by that Contracting Party.

(b) ~~Notwithstanding subparagraph (a), W~~ where a Contracting Party permits the filing of communications in electronic form or by electronic means in a particular language, and there are requirements applicable to that Contracting Party under the Patent Cooperation Treaty in relation to the electronic signatures in electronic form of communications filed in electronic form or by electronic means in that language which do not result in a graphic representation of the signature, that Office shall accept an electronic signature in electronic form in accordance with those requirements.

[Rule 9(5), continued]

(c) Rule 8(2)(b) shall apply *mutatis mutandis*.

⁸ In document SCP/3/2, paragraph (5) was applicable to the cases where a Contracting Party permits the filing of communications in electronic form or by electronic means. After further consideration, the International Bureau recommends that the reference to communications “by electronic means” be deleted. In consequence, this paragraph would be applicable to any transmission of an electronic file (including facsimile transmission from computer to computer) and to a filing on a diskette, but not to a facsimile transmission which results only in a paper copy. In addition, it is recommended that the words “subject to subparagraph (b)” be deleted from this subparagraph and the words “notwithstanding subparagraph (a)” be inserted at the beginning of subparagraph (b) for drafting consistency with Article 5(2).

(6) [*Exception to Certification of Signature Under Article 7(24)(b)*] A Contracting Party may require that any ~~electronic~~ signature referred to in paragraph (5) be confirmed by a means for certifying signatures in electronic form~~certificate issued by a certification authority~~ specified by ~~that~~ Contracting Party.

Rule 10

Details Concerning ~~the~~ Indications ~~of~~ Addresses Under Article 7(5) and (6)(i) ~~and (ii)~~

(1) [*Indications Under Article 7(5)*] (a) A Contracting Party may require that any communication:

(i) indicate the number of the application or patent to which it relates;

(ii) contain, where an applicant, owner or other interested person is registered with the Office, the number or other indication under which he is so registered.

(b) A Contracting Party may require that any communication by a representative for the purposes of a procedure before the Office contain:

(i) the name and address of the representative;

(ii) a reference to the power of attorney, or other communication in which the appointment of that representative is or was effected, on the basis of which the said representative acts;

(iii) where the representative is registered with the Office, the number or other indication under which he is registered.

[Rule 10, continued]

(2) [*Address for Correspondence and Address for Legal Service*] A Contracting Party may require that the address for correspondence ~~under~~ referred to in Article 7(6)(i) and the address for legal service ~~under~~ referred to in Article 7(6)(ii) be on a territory prescribed by that Contracting Party.

(3) [*Address Where No Representative Is Appointed*] Where no representative is appointed and an applicant, owner or other interested person has provided, as his address, an address on a territory prescribed by the Contracting Party under paragraph (2), that Contracting Party shall consider that address to be the address for correspondence ~~under~~ referred to in Article 7(6)(i) ~~and-or~~ the address for legal service ~~under~~ referred to in Article 7(6)(ii), as required by the Contracting Party, unless that applicant, owner or other interested person expressly indicates another such address under Article 7(~~4~~ 6).

(4) [*Address Where Representative Is Appointed*] Where a representative is appointed, a Contracting Party shall consider the address of that representative to be the address for correspondence ~~under~~ referred to in Article 7(6)(i) ~~and-or~~ the address for legal service ~~under~~ referred to in Article 7(6)(ii), as required by the Contracting Party, unless that applicant, owner or other interested person expressly indicates another such address under Article 7(~~4~~ 6).

[Rule 10, continued]

(5) [*Sanctions for Non-Compliance With Requirements Under Article 7(8)*] No Contracting Party may provide for the refusal of an application for failure to comply with any requirement to file a registration number or other indication under paragraph (1).

Rule 11

Time Limits Concerning Communications Under Article 7(7) and (8)

(1) [*Time Limit Under Article 7(7)*] The time limit referred to in Article 7(7) shall be not less than two months from the date of the notification referred to in that Article.

(2) [*Time Limit Under Article 7(8)*] The time limit referred to in Article 7(8) shall be:

(i) subject to item (ii), the time limit applied under paragraph (1);

(ii) where a notification under Article 7(7) has not been made because indications allowing the applicant, owner or other interested person to be contacted by the Office have not been filed, not less than three months from the date on which the communication referred to in that Article was received by the Office.

Rule 12

Details Concerning Relief in Respect of the Non-Compliance
With a Time Limit Under Article 10

(1)⁹ [Requirements Under Article 10(1)(i)] (a) A Contracting Party may require that a request referred to in Article 10(1)(i):

(i) be signed by the applicant or owner;

(ii) include the name and the address of the applicant or owner;

(iii) contain an indication to the effect that relief for the non-compliance with a time limit is requested and an identification of the time limit in question.

(b) Where a request for relief is filed after the expiration of the time limit, a Contracting Party may require that all of the requirements in respect of which the time limit for the action concerned applied are complied with at the same time as the request referred to in Article 10(1)(i).

(2) [Time Limits for Filing a Request Under Article 10(1)(ii)] The time limit referred to in Article 10(1)(ii) shall expire not earlier than two months from the date of the expiration of the unextended time limit.

⁹ The International Bureau recommends that former item (iv) in document SCP/3/2 (requirements with respect to form and format of the request) be deleted, since the provision is already covered by draft Article 7(1) and (3).

[Rule 12, continued]

(3) [Exceptions Under Article 10(3)] (a) No Contracting Party shall be required under Article 10(1) to grant:

[(i) a second, or any subsequent, relief in respect of a time limit for which relief has already been granted under Article 10(1);

(ii) relief for filing a request under Articles 10(1) and 12(1);

(iii) relief in respect of a time limit for the payment of maintenance fees;

(iv) relief in respect of a time limit referred to in Article 13(1)

to (3);

(v) relief in respect of a time limit for an action before a board of appeal or other review body constituted in the framework of the Office;

(vi) relief in respect of a time limit for an action in *inter partes* proceedings;

(vii) relief in respect of a time limit for an action in a procedure before the Office in respect of which a request for expedited or accelerated processing has been granted;

[Rule 12(3)(a), continued]

(viii) relief in respect of a time limit for filing a request for search or examination;

(ix) relief in respect of a time limit for filing a translation of a regional patent.]

(b) No Contracting Party which provides a maximum time limit for compliance with all of the requirements for the grant of a patent shall be required under Article 10(1) to grant relief in respect of a time limit for an action in a procedure before the Office in respect of any of those requirements beyond that maximum time limit.

Rule 13

*Details Concerning Continued Processing and Re-instatement of Rights
Without a Finding of Due Care by the Office Under Article 11*

[To be deleted, with consequential renumbering of Rules, if the recommendations concerning draft Article 10 and draft Rule 12 are accepted by the SCP]

Rule 14

*Details Concerning Re-instatement of Rights
After a Finding of Due Care or Unintentionality by the Office Under Article 12*

(1) [*Requirements Under Article 12(1)(i)*] A Contracting Party may require that a request ~~under~~ referred to in Article 12(1)(i):

(i) be signed by the applicant or owner;

¹⁰(ii) ~~be presented on a Form or in a format prescribed by that Contracting Party.~~

(2) [*Time Limit Under Article 12(1)(ii)*] The time limits for making a request, and for complying with the requirements, under Article 12(1)(ii), shall be the shorter of the following:

(i) not less than two months from the date of the removal of the cause of failure to comply with the time limit for the action in question;

(ii) not less than 12 months from the date of expiration of the time limit for the action in question.

¹⁰ The International Bureau recommends that this item be deleted, since the provision is already covered by draft Article 7(1) and (3).

[Rule 14, continued]

(3) [*Exceptions Under Article 12(2)*] The exceptions referred to in Article 12(2) are failure to comply with a time limit:

(i) for an action before a board of appeal or other review body constituted in the framework of the Office;

[(ii) for the payment of maintenance fees;]

(iii) for making a request under Article [10(1), 11(1) or] 12(1);

(iv) referred to in Article 13(1), (2) or (3)(a);

(v) for filing a request for search or examination;

[(vi) for filing a translation of a regional patent;]

(vii) for an action in *inter partes* proceedings.

Rule 15

Details Concerning Correction or Addition of Priority Claim and Restoration of Priority Claim Right Under Article 13

(1)¹¹ [Requirements Under Article 13(1)(i)] A Contracting Party may require that a request referred to in Article 13(1)(i) be signed by the applicant.

(2) [Time Limit Under Article 13(1)(ii)] The time limit referred to in Article 13(1)(ii) shall be not less than the time limit applicable under the Patent Cooperation Treaty to an international application for the submission of a priority claim after the filing of an international application.

(3) [Time Limits Under Article 13(2)] (a) The time limit referred to in Article 13(2), introductory part, shall be not less than two months from the date on which the priority period expired.

(b) The time limit referred to in Article 13(2)(ii) shall be the time limit applied under subparagraph (a), or the time that any technical preparations for publication of the subsequent application have been completed, whichever expire earlier.

¹¹ The International Bureau recommends that former item (ii) in document SCP/3/2 (requirements with respect to form and format of the request) be deleted, since the provision is already covered by draft Article 7(1) and (3).

[Rule 15, continued]

(4)¹² [Requirements Under Article 13(2)(i)] A Contracting Party may require that a request referred to in Article 13(2)(i):

(i) be signed by the applicant; and

(ii) be accompanied, where the application did not claim the priority of the earlier application, by the priority claim.

(5)¹² [Requirements Under Article 13(3)] (a) A Contracting Party may require that a request referred to in Article 13(3)(i):

(i) be signed by the applicant; and

(ii) indicate the Office to which the request for a copy of the earlier application had been made and the date of that request.

¹² The International Bureau recommends that former item (ii) of paragraphs (4) and (5) in document SCP/3/2 (requirements with respect to form and format of the request) be deleted, since the provision is already covered by draft Article 7(1) and (3).

[Rule 15(5), continued]

(b) A Contracting Party may require that:

(i) a declaration or other evidence in support of the request referred to in Article 13(3) be filed with the Office within a time limit fixed by the Office;

(ii) the copy of the earlier application referred to in Article 13(3) be filed with the Office within a time limit which shall be not less than one month from the date on which the applicant is provided with that copy by the Office with which the earlier application was filed.

~~(36) [Time Limit Under Article 13(3)(ii)]~~ The time limit referred to in Article 13(3)(ii) shall be two months before the expiration of the time limit prescribed in Rule ~~64~~(1).

~~(4) [Time Limit under Article 13(3)(b)(ii)]~~ The time limit referred to in Article 13(3)(b)(ii) shall be not less than one month from the date on which the applicant is provided with the copy referred to in that provision by the Office with which the earlier application was filed.

Rule 16

Request for Recordal of Change in Name or Address

(1) *[Request]* Where there is no change in the person of the applicant or owner but there is a change in his name or address, a Contracting Party shall accept that a request for recordal of the change be made in a communication signed by the applicant or owner and containing the following indications:

- (i) an indication to the effect that recordal of a change in name or address is requested;
- (ii) the number of the application or patent concerned;
- (iii) the change to be recorded;
- (iv) the name and address of the applicant or the owner prior to the change.

¹³~~(2) *[Request Form or Format]* (a) A Contracting Party may require that the request referred to in paragraph (1) be presented on a Form or in a format prescribed by that Contracting Party.~~

¹³ The International Bureau recommends that this paragraph be deleted, since the provision is already covered by draft Article 7(1) and (3).

~~(b) — Notwithstanding subparagraph (a), a Contracting Party shall accept the presentation of the request referred to in paragraph (1), filed on paper, if it is presented on a Form or in a Format which corresponds to the Model International Form or Model International Format in respect of requests for recordal of change in name or address.~~

(3 2) [*Fees*] A Contracting Party may require that a fee be paid in respect of a request ~~under~~ referred to in paragraph (1).

(4 3) [*Single Request*] (a) A single request shall be sufficient even where the change relates to both the name and address of the applicant or the owner.

(b) A single request shall be sufficient even where the change relates to more than one application or patent of the same person, or to one or more applications and one or more patents of the same person, provided that the numbers of all applications and patents concerned are indicated in the request. A Contracting Party may require that, where that single request is filed on paper or by other means permitted by the Office, a separate copy thereof be filed for each application and patent to which it relates.

(5 4) [*Evidence*] A Contracting Party may require that evidence be filed with the Office where the Office may reasonably doubt the veracity of any indication contained in the request.

[Rule 16, continued]

(~~6~~ 5)¹⁴ [*Prohibition of Other Requirements*] No Contracting Party may require that formal requirements other than those referred to in paragraphs (1) to (~~5~~ 4) be complied with in respect of the request referred to in paragraph (1), except where otherwise provided for by this Treaty or prescribed in the Regulations. In particular, the filing of any certificate concerning the change may not be required.

(~~7~~ 6) [*Notification*] Where one or more of the requirements applied under paragraphs (1) to (~~4~~ 3) are not complied with, or where evidence is required under paragraph (~~5~~ 4), the Office shall notify the applicant or owner, giving an opportunity to comply with any such requirement, and to make observations, within not less than two months from the date of the notification.

(~~8~~ 7)¹⁵ [*Non-Compliance with Requirements*] (a) Where one or more of the requirements ~~applicable~~ applied by the Contracting Party under paragraphs (1) to (~~5~~ 4) are not complied with within the time limit under subparagraph (b), the Contracting Party may provide that the request shall be refused, but no more severe sanction may be applied.

(b) The time limit referred to in subparagraph (a) shall be:

[Rule 16(7)(b), continued]

¹⁴ The modification is recommended in order to allow a Contracting Party to impose formal requirements other than those referred to in paragraphs (1) to (4), for example, the requirements under Article 7 and Rule 8.

¹⁵ The modification is recommended by the International Bureau for further drafting consistency with Article 5(8).

(i) subject to item (ii), not less than two months from the date of the notification;

(ii) where indications allowing the Office to contact the person who made the request referred to in paragraph (1) have not been filed, not less than three months from the date on which that request was received by the Office.

(9 8)¹⁶ [*Change in the Name or Address of the Representative, or in the Address for Correspondence or Address for Legal Service*] ~~Paragraphs (1) to (8)~~ The provisions of this Treaty applicable to a request for recordal of a change in the name or address of the applicant or owner shall apply, *mutatis mutandis*, to any change in the name or address of the representative, and to any change relating to the address for correspondence or address for legal service.

¹⁶ The modification recommended by the International Bureau is consequential to the deletion of former paragraph (2). The provision of former paragraph (2), now incorporated in Article 7(1) and (3), shall also apply, *mutatis mutandis*, to any change in the name or address of the representative, and to any change relating to the address for correspondence or address for legal service.

Rule 17

Request for Recordal of Change in Applicant or Owner

(1) [*Request for Recordal of a Change in Applicant or Owner*] (a) Where there is a change in the person of the applicant or owner, a Contracting Party shall accept that a request for recordal of the change be made in a communication signed by the applicant or owner, or by the new applicant or new owner, and containing the following indications:

(i) an indication to the effect that a recordal of change in applicant or owner is requested;

(ii) the number of the application or patent concerned;

(iii) the name and address of the applicant or owner;

(iv) the name and address of the new applicant or new owner;

(v) the date of the change in the person of the applicant or owner;

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

[Rule 17(1)(a), continued]

(vii) the basis for the change requested.

(b) A Contracting Party may require that the request contain:

(i) a statement that the information contained in the request is true and correct;

(ii) information relating to any government interest by that Contracting Party.

¹⁷~~(2) [Request Form or Format] Rule 16(2) shall apply, *mutatis mutandis*, to requests for recordal of a change in applicant or owner.~~

~~(3 2) [Documentation of the Basis of the Change in Applicant or Owner] (a) Where the recordal of a change in applicant or owner results from a contract, a Contracting Party may require that the request include information relating to the registration of the contract, where registration is compulsory under the applicable law of the Contracting Party and[, where the recordal is requested by the new applicant or the new owner, rather than by the applicant or owner,] be accompanied, at the option of the requesting party, by one of the following:~~

¹⁷ The International Bureau recommends that this paragraph be deleted, since the provision is already covered by draft Article 7(1) and (3).

[Rule 17(2)(a), continued]

(i) a copy of the contract, which copy may be required to be certified, at the option of the requesting party, by a notary public or any other competent public authority or, where permitted under the applicable law, by a representative having the right to practice before the Office, as being in conformity with the original contract;

(ii) an extract of the contract showing the change, which extract may be required to be certified, at the option of the requesting party, by a notary public or any other competent public authority or, where permitted under the applicable law, by a representative having the right to practice before the Office, as being a true extract of the contract;

(iii) an uncertified certificate of transfer of ownership by contract drawn up with the content as prescribed in the Model International Form or Model International Format in respect of a certificate of transfer and signed by both the applicant and the new applicant, or by both the owner and the new owner. ~~Rule 16(2) shall apply, *mutatis mutandis*, to the uncertified certificate of transfer of ownership by contract.~~

[Rule 17(2), continued]

(b) Where the change in applicant or owner results from a merger, or from the reorganization or division of a legal entity, a Contracting Party may require that the request be accompanied by a copy of a document, which document originates from a competent authority and evidences the merger, or the reorganization or division of the legal entity, and any attribution of rights involved, such as a copy of an extract from a register of commerce. A Contracting Party may also require that the copy be certified, at the option of the requesting party, by the authority which issued the document or by a notary public or any other competent public authority or, where permitted under the applicable law, by a representative having the right to practice before the Office, as being in conformity with the original document.

(c) Where the change in applicant or owner does not result from a contract, a merger, or the reorganization or division of a legal entity, but results from another ground, for example, by operation of law or a court decision, a Contracting Party may require that the request be accompanied by a copy of a document evidencing the change. A Contracting Party may also require that the copy be certified as being in conformity with the original document, at the option of the requesting party, by the authority which issued the document or by a notary public or any other competent public authority or, where permitted under the applicable law, by a representative having the right to practice before the Office.

[Rule 17(2), continued]

(d) Where the change is in the person of one or more but not all of several co-applicants or co-owners, a Contracting Party may require that evidence of the consent to the change of any co-applicant or co-owner in respect of whom there is no change be provided to the Office.

(4 ~~3~~)¹⁸ [*Translation*] A Contracting Party may require a translation of any document filed under paragraph ~~(3)(a)(i) or (ii), (b), (c) or (d)~~(2) that is not in a language accepted by the Office.

~~(5 4)~~ [*Fees*] A Contracting Party may require that a fee be paid in respect of a request ~~under~~ referred to in paragraph (1).

~~(6 5)~~ [*Single Request*] A single request shall be sufficient even where the change relates to more than one application or patent of the same person, or to one or more applications and one or more patents of the same person, provided that the change in applicant or owner is the same for all applications and patents concerned, and the numbers of all applications and patents concerned are indicated in the request. A Contracting Party may require that, where that single request is filed on paper or by other means permitted by the Office, a separate copy thereof be filed for each application and patent to which it relates.

¹⁸ The modification recommended by the International Bureau would allow a Contracting Party to require a translation of an uncertified certificate of transfer of ownership by contract referred to in paragraph (2)(a)(iii).

[Rule 17, continued]

(7 6) [*Evidence*] A Contracting Party may require that evidence, or further evidence in the case of paragraph (3 2), be filed with 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 Rule, or the accuracy of any translation ~~required under~~ referred to in paragraph (4 3).

(8 7)¹⁹ [*Prohibition of Other Requirements*] No Contracting Party may require that formal requirements other than those referred to in paragraphs (1) to (7 6) be complied with in respect of the request referred to in this Article, except where otherwise provided for by this Treaty or prescribed in the Regulations.

(9 8) [*Notification; Non-Compliance with Requirements*] Rule 16(7 6) and (8 7) shall apply, *mutatis mutandis*, where one or more of the requirements applied under paragraphs (1) to (6 5) are not complied with, or where evidence, or further evidence, is required under paragraph (7 6).

(10 9)[*Exclusion with Respect to Inventorship*] A Contracting Party may exclude the application of this Rule in respect of changes in inventorship. What constitutes inventorship shall be determined under the applicable law of the Contracting Party.

¹⁹ The modification is recommended in order to allow a Contracting Party to impose formal requirements other than those referred to in paragraphs (1) to (6), for example, the requirements under Article 7 and Rule 8.

Rule 18

Request for Recordal of a Licensing Agreement or Security Interest

(1) [*Request for Recordal of a Licensing Agreement*] (a) Where a licensing agreement in respect of an application or patent may be recorded under the applicable law, the Contracting Party shall accept that a request for recordal of that licensing agreement be made in a communication signed by the licensor or the licensee and containing the following indications:

(i)²⁰ an indication to the effect that a recordal of a licensing agreement ~~or security interest~~ is requested;

(ii) the number of the application or patent concerned;

(iii) the name and address of the licensor;

(iv) the name and address of the licensee;

(v) an indication of whether the license is an exclusive license or a non-exclusive license.

(b) A Contracting Party may require that the request contain:

²⁰ The International Bureau recommends that the words “or security interest” be deleted, since it is covered by the *mutatis mutandis* provision in paragraph (9).

[Rule 18(1)(b), continued]

(i) a statement that the information contained in the request is true and correct;

(ii) information relating to any government interest by that Contracting Party;

(iii) information relating to the registration of the licensing agreement, where registration is compulsory under the applicable national law of the Contracting Party.

²¹~~(2) [Request Form or Format] Rule 16(2) shall apply, *mutatis mutandis*, to requests for recordal of a licensing agreement.~~

~~(3)~~ 2 [Documentation of the Basis of the Licensing Agreement] (a) A Contracting Party may require that [, where the recordal is requested by the licensee, rather than by the licensor,] the request be accompanied, at the option of the requesting party, by one of the following:

²¹ The International Bureau recommends that this paragraph be deleted, since the provision is already covered by draft Article 7(1) and (3).

[Rule 18(2)(a), continued]

(i) a copy of the licensing agreement, which copy may be required to be certified, at the option of the requesting party, by a notary public or any other competent public authority or, where permitted under the applicable law, by a representative having the right to practice before the Office, as being in conformity with the original licensing agreement;

(ii) an extract of the licensing agreement consisting of those portions of that agreement which show the rights licensed and their extent, which extract may be required to be certified, at the option of the requesting party, by a notary public or any other competent public authority or, where permitted under the applicable law, by a representative having the right to practice before the Office, as being a true extract of the licensing agreement.

(b) A Contracting Party may require that any applicant, owner, exclusive licensee, co-applicant, co-owner or co-exclusive licensee who is not party to a licensing agreement give his consent to the recordal of that licensing agreement in a communication to the Office.

(4 3)²² [Translation] A Contracting Party may require ~~that, if the~~ a translation of any document referred to in filed under paragraph (3 2) that is not in a language accepted by the Office, ~~that document be accompanied by a translation.~~

²² The International Bureau recommends that the modification be made for further drafting consistency with other relevant provisions of the Treaty.

[Rule 18, continued]

(~~5~~ 4) [*Fees*] A Contracting Party may require that a fee be paid in respect of a request ~~under~~ referred to in paragraph (1).

(~~6~~ 5) [*Single Request*] Rule 17(~~6~~ 5) shall apply, *mutatis mutandis*, to requests for recordal of a licensing agreement.

(~~7~~ 6) [*Evidence*] Rule 17(~~7~~ 6) shall apply, *mutatis mutandis*, to requests for recordal of a licensing agreement.

(~~8~~ 7)²³ [*Prohibition of Other Requirements*] No Contracting Party may require that requirements other than those referred to in paragraphs (1) to (~~7~~ 6) be complied with in respect of the request referred to in paragraph (1), except where otherwise provided for by this Treaty or prescribed in the Regulations.

(~~9~~ 8) [*Notification; Non-Compliance with Requirements*] Rule 16(~~7~~ 6) and (~~8~~ 7) shall apply, *mutatis mutandis*, where one or more of the requirements applied under paragraphs (1) to (~~6~~ 5) are not complied with, or where evidence, or further evidence, is required under paragraph (~~7~~ 6).

[Rule 18, continued]

²³ The modification is recommended in order to allow a Contracting Party to impose formal requirements other than those referred to in paragraphs (1) to (6), for example, the requirements under Article 7 and Rule 8.

~~(10 2)~~ [*Request for Recordal of a Security Interest or Cancellation of the Recordal of a Licensing Agreement or a Security Interest*] Paragraphs (1) to ~~(9 8)~~ shall apply, *mutatis mutandis*, to requests for:

- (i) recordal of a security interest in respect of an application or patent;
- (ii) cancellation of the recordal of a licensing agreement or a security interest in respect of an application or patent.

Rule 19

Request for Correction of a Mistake

(1) [*Request*] (a) Where an application, a patent or any request communicated to the Office in respect of an application or a patent contains a mistake which is correctable under the applicable law, the Contracting Party shall accept that a request for correction of that mistake in the records and publications of the Office be made in a communication signed by the applicant or owner and containing the following indications:

- (i) an indication to the effect that a correction of mistake is requested;
- (ii) the number of the application or patent concerned;
- (iii) the mistake to be corrected;
- (iv) the correction to be made;
- (v) the name and address of the requesting party.

(b) A Contracting Party may require that the request be accompanied by a replacement part or part incorporating the correction or, where paragraph (4) applies, by such a replacement part or part incorporating for each application and patent to which the request relates.

[Rule 19(1), continued]

(c) A Contracting Party may require that the request be subject to a declaration by the requesting party stating that the mistake was made in good faith.

(d) A Contracting Party may require that the request be subject to a declaration by the requesting party stating that the said request was made without undue delay or, at the option of the Contracting Party, that it was made without intentional delay, following the discovery of the mistake.

²⁴~~(2) [Request Form or Format] Rule 16(2) shall apply, *mutatis mutandis*, to requests for correction of a mistake.~~

~~(3 2) [Fees]~~ (a) Subject to subparagraph (b), a Contracting Party may require that a fee be paid in respect of a request under paragraph (1).

(b) The Office shall correct its own mistakes, *ex officio* or upon request, for no fee.

~~(4 3) [Single Request] Rule 17(6 5)~~ shall apply, *mutatis mutandis*, to requests for correction of a mistake, provided that the mistake and the requested correction are the same for all applications and patents concerned.

[Rule 19, continued]

~~(5 4) [Evidence]~~ A Contracting Party may, where the Office may reasonably doubt that the alleged mistake is in fact a mistake, or where it may reasonably doubt the veracity of any

²⁴ The International Bureau recommends that this paragraph be deleted, since the provision is already covered by draft Article 7(1) and (3).

matter contained in, or of any document filed in connection with, the request for correction of a mistake, require that evidence in support of the request be filed with the Office.

(6 5)²⁵ [*Prohibition of Other Requirements*] No Contracting Party may require that formal requirements other than those referred to in paragraphs (1) to (5 4) be complied with in respect of the request referred to in paragraph (1), except where otherwise provided for by this Treaty or prescribed in the Regulations.

(7 6) [*Notification; Non-Compliance with Requirements*] Rule 16(7 6) and (8 7) shall apply, *mutatis mutandis*, where one or more of the requirements applied under paragraphs (1) to (4 3) are not complied with, or where evidence is required under paragraph (5 4).

(8 7) [*Exclusions*] (a) A Contracting Party may exclude the application of this Rule in respect of changes in inventorship. What constitutes inventorship shall be determined under the applicable law of the Contracting Party.

²⁵ The modification is recommended in order to allow a Contracting Party to impose formal requirements other than those referred to in paragraphs (1) to (4), for example, the requirements under Article 7 and Rule 8.

[Rule 19(7), continued]

(b) A Contracting Party may exclude the application of this Rule in respect of any mistake which must be corrected in that Contracting Party under a procedure for reissue of the patent.

Rule 20

*Manner of Identification of an Application
Without Its Application Number*

(1) [*Manner of Identification*] Where it is required that an application be identified by its application number, but such a number has not yet been issued or is not known to the person concerned or his representative, the application shall be considered identified if one of the following is supplied, at ~~his~~ that person's option:

(i) the provisional application number, if any, given by the Office;

(ii) a copy of the request part of the application along with the date on which the application was sent to the Office;

(iii) a reference number given to the application by the applicant or his representative and indicated in the application, along with the name and address of the applicant, the title of the invention and the date on which the application was sent to the Office.

(2) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraph (1) be complied with in order for an application to be identified where its application number has not yet been issued or is not known to the person concerned or his representative.

Rule 21

Establishment of Model International Forms and Formats

(1) [*Model International Forms*] (a) The Assembly shall, under Article 14(1)(c), establish Model International Forms in respect of:

- (i) a power of attorney;
- (ii) a request for recordal of change in name or address;
- (iii) a request for recordal of change in applicant or owner;
- (iv) a certificate of transfer;
- (v) a request for recordal, or cancellation of recordal, of a licensing agreement;
- (vi) a request for recordal, or cancellation of recordal, of a security interest;
- (vii) a request for correction of a mistake.

(b) The Assembly shall establish the modifications of the Patent Cooperation Treaty request Form referred to in Article 5(2)(b).

[Rule 21(1), continued]

(c) The International Bureau shall present proposals to the Assembly concerning:

(i) the establishment of Model International Forms referred to in subparagraph (a);

(ii) the modifications of the Patent Cooperation Treaty request Form referred to in subparagraph (b).

(2) [*Model International Formats*] (a) The Assembly shall, under Article 14(1)(c), establish any Model International Formats in respect of the request Format referred to in Article 5(2)(c) and the items referred to in paragraph (1)(a).

(b)²⁶ The International Bureau shall present proposals to the Assembly concerning ~~any request Format referred to in Article 5(2)(c) and~~ the establishment of Model International Formats referred to in subparagraph (a).

²⁶ The modification is recommended by the International Bureau since, in accordance with subparagraph (a), “Model International Formats referred to in subparagraph (a)” already covers “any request Format referred to in Article 5(2)(c)”.

Rule 22

Requirement of Unanimity for Amending Certain Rules Under Article 14(3)

(1) [Amendment of Certain Rules] Amendment of Rule 8(1) and the present Rule shall require that no Contracting Party having the right to vote in the Assembly vote against the proposed amendment. ~~[In determining whether the present Rule is complied with, only votes actually cast shall be taken into consideration.]~~

(2) [Compliance With The Present Rule] In determining whether the present Rule is complied with, only votes actually cast shall be taken into consideration.

[End of document]