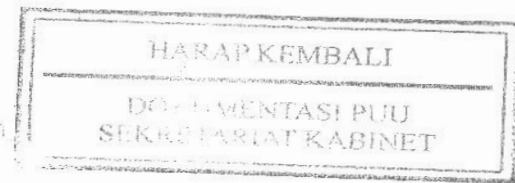




PRESIDEN
REPUBLIK INDONESIA



KEPUTUSAN PRESIDEN REPUBLIK INDONESIA
NOMOR 16 TAHUN 1997
TENTANG
PENGESAHAN *PATENT COOPERATION TREATY (PCT)*
AND REGULATIONS UNDER THE PCT

PRESIDEN REPUBLIK INDONESIA,

- Menimbang : a. bahwa sebagai hasil persidangan Negara-negara Anggota *World Intellectual Property Organization* di Washington, Amerika Serikat pada tanggal 19 Juni 1970 telah diterima *Patent Cooperation Treaty (PCT) and the Regulations under the PCT* sebagaimana telah dua kali diubah, terakhir pada tanggal 3 Pebruari 1984;
- b. bahwa sehubungan dengan itu, dan sesuai dengan Amanat Presiden Republik Indonesia kepada Ketua Dewan Perwakilan Rakyat Nomor 2826/HK/1960 tanggal 22 Agustus 1960 tentang Pembuatan Perjanjian-perjanjian dengan Negara Lain, dipandang perlu untuk mengesahkan *Treaty* tersebut dengan Keputusan Presiden;
- Mengingat : Pasal 4 ayat (1) dan Pasal 11 Undang-Undang Dasar 1945;

MEMUTUSKAN :



PRESIDEN
REPUBLIK INDONESIA

- 2 -

MEMUTUSKAN :

Menetapkan : KEPUTUSAN PRESIDEN TENTANG PENGESAHAN *PATENT COOPERATION TREATY (PCT) AND REGULATIONS UNDER THE PCT.*

Pasal 1

Mengesahkan *Patent Cooperation Treaty (PCT) and the Regulations under the PCT* sebagai hasil persidangan dan diterima oleh Negara-negara Anggota *World Intellectual Property Organization* di Washington, Amerika Serikat pada tanggal 19 Juni 1970, sebagaimana telah dua kali diubah terakhir pada tanggal 3 Pebruari 1984, disertai dengan *Pensyaratan (Reservation)* terhadap Pasal 59 yang salinan naskah aslinya dalam bahasa Inggeris sebagaimana terlampir pada Keputusan Presiden ini.

Pasal 2

Keputusan Presiden ini mulai berlaku pada tanggal ditetapkan.

Agar ...



PRESIDEN
REPUBLIK INDONESIA

- 3 -

Agar setiap orang mengetahuinya, memerintahkan pengundangan
Keputusan Presiden ini dengan penempatannya dalam Lembaran
Negara Republik Indonesia.

Ditetapkan di Jakarta
pada tanggal 7 Mei 1997

PRESIDEN REPUBLIK INDONESIA

ttd

SOEHARTO

Diundangkan di Jakarta
pada tanggal 7 Mei 1997

MENTERI NEGARA SEKRETARIS NEGARA
REPUBLIK INDONESIA

ttd

MOERDIONO

LEMBARAN NEGARA REPUBLIK INDONESIA TAHUN 1997 NOMOR 33

Salinan sesuai dengan aslinya
SEKRETARIAT KABINET RI

Kepala Biro Hukum
dan Perundang-undangan



Lambock V. Nahattands



PRESIDEN
REPUBLIK INDONESIA

LAMPIRAN
ATAS
KEPUTUSAN PRESIDEN REPUBLIK INDONESIA
NOMOR 16 TAHUN 1997

PENSYARATAN
(RESERVATION)

TERHADAP PASAL 59 PATENT COOPERATION TREATY (PCT) AND
REGULATION UNDER THE PCT.

“The Republic of Indonesia does not consider itself bound by the provision of Article 33 (1) of the Treaty, which provides :

Subject to Article 64 (5), any dispute between two or more Contracting States concerning the interpretation or application of this Treaty or the Regulations, not settled by negotiation, may, by any one of the States concerned, be brought before the International Court of Justice by application in conformity with the Statute of the Court, unless the States concerned agree on some other method of settlement. The Contracting States bringing the dispute before the Court shall inform the International Bureau; the International Bureau shall bring the matter to the attention of the other Contracting States. The Republic of Indonesia takes the position that for any dispute to be referred to the International Court of Justice for its decision, the agreement of all the Parties to the dispute shall be necessary in each individual case”.

PRESIDEN REPUBLIK INDONESIA

ttd

SOEHARTO

Salinan sesuai dengan aslinya
SEKRETARIAT KABINET RI

Kepala Biro Hukum
dan Perundang-undangan

Lambock V. Nahattands

Patent Cooperation Treaty (PCT)

Done at Washington on June 19, 1970,
amended on September 28, 1979,
and modified on February 3, 1984,

and

Regulations under the PCT

(as in force from January 1, 1993)



World Intellectual Property Organization
GENEVA 1993

Patent Cooperation Treaty

Done at Washington on June 19, 1970,
amended on September 28, 1979,
and modified on February 3, 1984,

TABLE OF CONTENTS *

Preamble

Introductory Provisions

- Article 1: Establishment of a Union
- Article 2: Definitions

Chapter I: International Application and International Search

- Article 3: The International Application
- Article 4: The Request
- Article 5: The Description
- Article 6: The Claims
- Article 7: The Drawings
- Article 8: Claiming Priority
- Article 9: The Applicant
- Article 10: The Receiving Office
- Article 11: Filing Date and Effects of the International Application
- Article 12: Transmittal of the International Application to the International Bureau and the International Searching Authority
- Article 13: Availability of Copy of the International Application to Designated Offices
- Article 14: Certain Defects in the International Application
- Article 15: The International Search
- Article 16: The International Searching Authority
- Article 17: Procedure before the International Searching Authority
- Article 18: The International Search Report
- Article 19: Amendment of the Claims before the International Bureau
- Article 20: Communication to Designated Offices
- Article 21: International Publication
- Article 22: Copy, Translation, and Fee, to Designated Offices
- Article 23: Delaying of National Procedure
- Article 24: Possible Loss of Effect in Designated States

* Table of Contents added for the convenience of the reader; it does not appear in the signed text of the Treaty.

- Article 25: Review by Designated Offices
- Article 26: Opportunity to Correct before Designated Offices
- Article 27: National Requirements
- Article 28: Amendment of the Claims, the Description, and the Drawings, before Designated Offices
- Article 29: Effects of the International Publication
- Article 30: Confidential Nature of the International Application

Chapter II: International Preliminary Examination

- Article 31: Demand for International Preliminary Examination
- Article 32: The International Preliminary Examining Authority
- Article 33: The International Preliminary Examination
- Article 34: Procedure before the International Preliminary Examining Authority
- Article 35: The International Preliminary Examination Report
- Article 36: Transmittal, Translation, and Communication, of the International Preliminary Examination Report
- Article 37: Withdrawal of Demand or Election
- Article 38: Confidential Nature of the International Preliminary Examination
- Article 39: Copy, Translation, and Fee, to Elected Offices
- Article 40: Delaying of National Examination and Other Processing
- Article 41: Amendment of the Claims, the Description, and the Drawings, before Elected Offices
- Article 42: Results of National Examination in Elected Offices

Chapter III: Common Provisions

- Article 43: Seeking Certain Kinds of Protection
- Article 44: Seeking Two Kinds of Protection
- Article 45: Regional Patent Treaties
- Article 46: Incorrect Translation of the International Application
- Article 47: Time Limits
- Article 48: Delay in Meeting Certain Time Limits
- Article 49: Right to Practice before International Authorities

Chapter IV: Technical Services

- Article 50: Patent Information Services
- Article 51: Technical Assistance
- Article 52: Relations with Other Provisions of the Treaty

Chapter V: Administrative Provisions

- Article 53: Assembly
- Article 54: Executive Committee
- Article 55: International Bureau
- Article 56: Committee for Technical Cooperation
- Article 57: Finances
- Article 58: Regulations

Chapter VI: Disputes

- Article 59: Disputes

Chapter VII: Revision and Amendment

- Article 60: Revision of the Treaty
- Article 61: Amendment of Certain Provisions of the Treaty

Chapter VIII: Final Provisions

- Article 62: Becoming Party to the Treaty
- Article 63: Entry into Force of the Treaty
- Article 64: Reservations
- Article 65: Gradual Application
- Article 66: Denunciation
- Article 67: Signature and Languages
- Article 68: Depositary Functions
- Article 69: Notifications

The Contracting States,

Desiring to make a contribution to the progress of science and technology,

Desiring to perfect the legal protection of inventions,

Desiring to simplify and render more economical the obtaining of protection for inventions where protection is sought in several countries,

Desiring to facilitate and accelerate access by the public to the technical information contained in documents describing new inventions,

Desiring to foster and accelerate the economic development of developing countries through the adoption of measures designed to increase the efficiency of their legal systems, whether national or regional, instituted for the protection of inventions by providing easily accessible information on the availability of technological solutions applicable to their special needs and by facilitating access to the ever expanding volume of modern technology,

Convinced that cooperation among nations will greatly facilitate the attainment of these aims,

Have concluded the present Treaty.

Introductory Provisions

Article 1

Establishment of a Union

(1) The States party to this Treaty (hereinafter called "the Contracting States") constitute a Union for cooperation in the filing, searching, and examination, of applications for the protection of inventions, and for rendering special technical services. The Union shall be known as the International Patent Cooperation Union.

(2) No provision of this Treaty shall be interpreted as diminishing the rights under the Paris Convention for the Protection of Industrial Property of any national or resident of any country party to that Convention.

Article 2 Definitions

For the purposes of this Treaty and the Regulations and unless expressly stated otherwise:

(i) "application" means an application for the protection of an invention; references to an "application" shall be construed as references to applications for patents for inventions, inventors' certificates, utility certificates, utility models, patents or certificates of addition, inventors' certificates of addition, and utility certificates of addition;

(ii) references to a "patent" shall be construed as references to patents for inventions, inventors' certificates, utility certificates, utility models, patents or certificates of addition, inventors' certificates of addition, and utility certificates of addition;

(iii) "national patent" means a patent granted by a national authority;

(iv) "regional patent" means a patent granted by a national or an intergovernmental authority having the power to grant patents effective in more than one State;

(v) "regional application" means an application for a regional patent;

(vi) references to a "national application" shall be construed as references to applications for national patents and regional patents, other than applications filed under this Treaty;

(vii) "international application" means an application filed under this Treaty;

(viii) references to an "application" shall be construed as references to international applications and national applications;

(ix) references to a "patent" shall be construed as references to national patents and regional patents;

(x) references to "national law" shall be construed as references to the national law of a Contracting State or, where a regional application or a regional patent is involved, to the treaty providing for the filing of regional applications or the granting of regional patents;

(xi) "priority date," for the purposes of computing time limits, means:

(a) where the international application contains a priority claim under Article 8, the filing date of the application whose priority is so claimed;

(b) where the international application contains several priority claims under Article 8, the filing date of the earliest application whose priority is so claimed;

(c) where the international application does not contain any priority claim under Article 8, the international filing date of such application;

(xii) "national Office" means the government authority of a Contracting State entrusted with the granting of patents; references to a "national Office" shall be construed as referring also to any inter-governmental authority which several States have entrusted with the task of granting regional patents, provided that at least one of those States is a Contracting State, and provided that the said States have authorized that authority to assume the obligations and exercise the powers which this Treaty and the Regulations provide for in respect of national Offices;

(xiii) "designated Office" means the national Office of or acting for the State designated by the applicant under Chapter I of this Treaty;

(xiv) "elected Office" means the national Office of or acting for the State elected by the applicant under Chapter II of this Treaty;

(xv) "receiving Office" means the national Office or the inter-governmental organization with which the international application has been filed;

(xvi) "Union" means the International Patent Cooperation Union;

(xvii) "Assembly" means the Assembly of the Union;

(xviii) "Organization" means the World Intellectual Property Organization;

(xix) "International Bureau" means the International Bureau of

the Organization and, as long as it subsists, the United International Bureaux for the Protection of Intellectual Property (BIRPI);

(xx) "Director General" means the Director General of the Organization and, as long as BIRPI subsists, the Director of BIRPI.

CHAPTER I

International Application and International Search

Article 3

The International Application

(1) Applications for the protection of inventions in any of the Contracting States may be filed as international applications under this Treaty.

(2) An international application shall contain, as specified in this Treaty and the Regulations, a request, a description, one or more claims, one or more drawings (where required), and an abstract.

(3) The abstract merely serves the purpose of technical information and cannot be taken into account for any other purpose, particularly not for the purpose of interpreting the scope of the protection sought.

(4) The international application shall:

- (i) be in a prescribed language;
- (ii) comply with the prescribed physical requirements;
- (iii) comply with the prescribed requirement of unity of invention;
- (iv) be subject to the payment of the prescribed fees.

Article 4

The Request

(1) The request shall contain:

- (i) a petition to the effect that the international application be processed according to this Treaty;
- (ii) the designation of the Contracting State or States in which protection for the invention is desired on the basis of the international

application ("designated States"); if for any designated State a regional patent is available and the applicant wishes to obtain a regional patent rather than a national patent, the request shall so indicate; if, under a treaty concerning a regional patent, the applicant cannot limit his application to certain of the States party to that treaty, designation of one of those States and the indication of the wish to obtain the regional patent shall be treated as designation of all the States party to that treaty; if, under the national law of the designated State, the designation of that State has the effect of an application for a regional patent, the designation of the said State shall be treated as an indication of the wish to obtain the regional patent;

(iii) the name of and other prescribed data concerning the applicant and the agent (if any);

(iv) the title of the invention;

(v) the name of and other prescribed data concerning the inventor where the national law of at least one of the designated States requires that these indications be furnished at the time of filing a national application. Otherwise, the said indications may be furnished either in the request or in separate notices addressed to each designated Office whose national law requires the furnishing of the said indications but allows that they be furnished at a time later than that of the filing of a national application.

(2) Every designation shall be subject to the payment of the prescribed fee within the prescribed time limit.

(3) Unless the applicant asks for any of the other kinds of protection referred to in Article 43, designation shall mean that the desired protection consists of the grant of a patent by or for the designated State. For the purposes of this paragraph, Article 2(ii) shall not apply.

(4) Failure to indicate in the request the name and other prescribed data concerning the inventor shall have no consequence in any designated State whose national law requires the furnishing of the said indications but allows that they be furnished at a time later than that of the filing of a national application. Failure to furnish the said indications in a separate notice shall have no consequence in any designated State whose national law does not require the furnishing of the said indications.

Article 5
The Description

The description shall disclose the invention in a manner sufficiently clear and complete for the invention to be carried out by a person skilled in the art.

Article 6
The Claims

The claim or claims shall define the matter for which protection is sought. Claims shall be clear and concise. They shall be fully supported by the description.

Article 7
The Drawings

(1) Subject to the provisions of paragraph (2)(ii), drawings shall be required when they are necessary for the understanding of the invention.

(2) Where, without being necessary for the understanding of the invention, the nature of the invention admits of illustration by drawings:

(i) the applicant may include such drawings in the international application when filed,

(ii) any designated Office may require that the applicant file such drawings with it within the prescribed time limit.

Article 8
Claiming Priority

(1) The international application may contain a declaration, as prescribed in the Regulations, claiming the priority of one or more earlier applications filed in or for any country party to the Paris Convention for the Protection of Industrial Property.

(2)(a) Subject to the provisions of subparagraph (b), the conditions for, and the effect of, any priority claim declared under para-

graph (1) shall be as provided in Article 4 of the Stockholm Act of the Paris Convention for the Protection of Industrial Property.

(b) The international application for which the priority of one or more earlier applications filed in or for a Contracting State is claimed may contain the designation of that State. Where, in the international application, the priority of one or more national applications filed in or for a designated State is claimed, or where the priority of an international application having designated only one State is claimed, the conditions for, and the effect of, the priority claim in that State shall be governed by the national law of that State.

Article 9

The Applicant

(1) Any resident or national of a Contracting State may file an international application.

(2) The Assembly may decide to allow the residents and the nationals of any country party to the Paris Convention for the Protection of Industrial Property which is not party to this Treaty to file international applications.

(3) The concepts of residence and nationality, and the application of those concepts in cases where there are several applicants or where the applicants are not the same for all the designated States, are defined in the Regulations.

Article 10

The Receiving Office

The international application shall be filed with the prescribed receiving Office, which will check and process it as provided in this Treaty and the Regulations.

Article 11

Filing Date and Effects of the International Application

(1) The receiving Office shall accord as the international filing

date the date of receipt of the international application, provided that that Office has found that, at the time of receipt:

(i) the applicant does not obviously lack, for reasons of residence or nationality, the right to file an international application with the receiving Office,

(ii) the international application is in the prescribed language,

(iii) the international application contains at least the following elements:

(a) an indication that it is intended as an international application,

(b) the designation of at least one Contracting State,

(c) the name of the applicant, as prescribed,

(d) a part which on the face of it appears to be a description,

(e) a part which on the face of it appears to be a claim or claims.

(2)(a) If the receiving Office finds that the international application did not, at the time of receipt, fulfill the requirements listed in paragraph (1), it shall, as provided in the Regulations, invite the applicant to file the required correction.

(b) If the applicant complies with the invitation, as provided in the Regulations, the receiving Office shall accord as the international filing date the date of receipt of the required correction.

(3) Subject to Article 64(4), any international application fulfilling the requirements listed in items (i) to (iii) of paragraph (1) and accorded an international filing date shall have the effect of a regular national application in each designated State as of the international filing date, which date shall be considered to be the actual filing date in each designated State.

(4) Any international application fulfilling the requirements listed in items (i) to (iii) of paragraph (1) shall be equivalent to a regular national filing within the meaning of the Paris Convention for the Protection of Industrial Property.

Article 12

Transmittal of the International Application to the International Bureau and the International Searching Authority

(1) One copy of the international application shall be kept by the receiving Office ("home copy"), one copy ("record copy") shall be transmitted to the International Bureau, and another copy ("search copy") shall be transmitted to the competent International Searching Authority referred to in Article 16, as provided in the Regulations.

(2) The record copy shall be considered the true copy of the international application.

(3) The international application shall be considered withdrawn if the record copy has not been received by the International Bureau within the prescribed time limit.

Article 13

Availability of Copy of the International Application to Designated Offices

(1) Any designated Office may ask the International Bureau to transmit to it a copy of the international application prior to the communication provided for in Article 20, and the International Bureau shall transmit such copy to the designated Office as soon as possible after the expiration of one year from the priority date.

(2)(a) The applicant may, at any time, transmit a copy of his international application to any designated Office.

(b) The applicant may, at any time, ask the International Bureau to transmit a copy of his international application to any designated Office, and the International Bureau shall transmit such copy to the designated Office as soon as possible.

(c) Any national Office may notify the International Bureau that it does not wish to receive copies as provided for in subparagraph (b), in which case that subparagraph shall not be applicable in respect of that Office.

Article 14

Certain Defects in the International Application

(1)(a) 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;
- (ii) it does not contain the prescribed indications concerning the applicant;
- (iii) it does not contain a title;
- (iv) it does not contain an abstract;
- (v) it does not comply to the extent provided in the Regulations with the prescribed physical requirements.

(b) If the receiving Office finds any of the said defects, it shall invite the applicant to correct the international application within the prescribed time limit, failing which that application shall be considered withdrawn and the receiving Office shall so declare.

(2) If the international application refers to drawings which, in fact, are not included in that application, the receiving Office shall notify the applicant accordingly and he may furnish them within the prescribed time limit and, if he does, the international filing date shall be the date on which the drawings are received by the receiving Office. Otherwise, any reference to the said drawings shall be considered non-existent.

(3)(a) If the receiving Office finds that, within the prescribed time limits, the fees prescribed under Article 3(4)(iv) have not been paid, or no fee prescribed under Article 4(2) has been paid in respect of any of the designated States, the international application shall be considered withdrawn and the receiving Office shall so declare.

(b) If the receiving Office finds that the fee prescribed under Article 4(2) has been paid in respect of one or more (but less than all) designated States within the prescribed time limit, the designation of those States in respect of which it has not been paid within the prescribed time limit shall be considered withdrawn and the receiving Office shall so declare.

(4) If, after having accorded an international filing date to the international application, the receiving Office finds, within the prescribed time limit, that any of the requirements listed in items (i) to (iii) of Article 11(1) was not complied with at that date, the said application shall be considered withdrawn and the receiving Office shall so declare.

Article 15

The International Search

(1) Each international application shall be the subject of international search.

(2) The objective of the international search is to discover relevant prior art.

(3) International search shall be made on the basis of the claims, with due regard to the description and the drawings (if any).

(4) The International Searching Authority referred to in Article 16 shall endeavor to discover as much of the relevant prior art as its facilities permit, and shall, in any case, consult the documentation specified in the Regulations.

(5)(a) If the national law of the Contracting State so permits, the applicant who files a national application with the national Office of or acting for such State may, subject to the conditions provided for in such law, request that a search similar to an international search ("international-type search") be carried out on such application.

(b) If the national law of the Contracting State so permits, the national Office of or acting for such State may subject any national application filed with it to an international-type search.

(c) The international-type search shall be carried out by the International Searching Authority referred to in Article 16 which would be competent for an international search if the national application were an international application and were filed with the Office referred to in subparagraphs (a) and (b). If the national application is in a language which the International Searching Authority considers it is not equipped to handle, the international-type search shall be carried out on a translation prepared by the applicant in a language pre-

scribed for international applications and which the International Searching Authority has undertaken to accept for international applications. The national application and the translation, when required, shall be presented in the form prescribed for international applications.

Article 16

The International Searching Authority

(1) International search shall be carried out by an International Searching Authority, which may be either a national Office or an intergovernmental organization, such as the International Patent Institute, whose tasks include the establishing of documentary search reports on prior art with respect to inventions which are the subject of applications.

(2) If, pending the establishment of a single International Searching Authority, there are several International Searching Authorities, each receiving Office shall, in accordance with the provisions of the applicable agreement referred to in paragraph (3)(b), specify the International Searching Authority or Authorities competent for the searching of international applications filed with such Office.

(3)(a) International Searching Authorities shall be appointed by the Assembly. Any national Office and any intergovernmental organization satisfying the requirements referred to in subparagraph (c) may be appointed as International Searching Authority.

(b) Appointment shall be conditional on the consent of the national Office or intergovernmental organization to be appointed and the conclusion of an agreement, subject to approval by the Assembly, between such Office or organization and the International Bureau. The agreement shall specify the rights and obligations of the parties, in particular, the formal undertaking by the said Office or organization to apply and observe all the common rules of international search.

(c) The Regulations prescribe the minimum requirements, particularly as to manpower and documentation, which any Office or orga-

nization must satisfy before it can be appointed and must continue to satisfy while it remains appointed.

(d) Appointment shall be for a fixed period of time and may be extended for further periods.

(e) Before the Assembly makes a decision on the appointment of any national Office or intergovernmental organization, or on the extension of its appointment, or before it allows any such appointment to lapse, the Assembly shall hear the interested Office or organization and seek the advice of the Committee for Technical Cooperation referred to in Article 56 once that Committee has been established.

Article 17

Procedure before the International Searching Authority

(1) Procedure before the International Searching Authority shall be governed by the provisions of this Treaty, the Regulations, and the agreement which the International Bureau shall conclude, subject to this Treaty and the Regulations, with the said Authority.

(2)(a) If the International Searching Authority considers

(i) that the international application relates to a subject matter which the International Searching Authority is not required, under the Regulations, to search, and in the particular case decides not to search, or

(ii) that the description, the claims, or the drawings, fail to comply with the prescribed requirements to such an extent that a meaningful search could not be carried out,

the said Authority shall so declare and shall notify the applicant and the International Bureau that no international search report will be established.

(b) If any of the situations referred to in subparagraph (a) is found to exist in connection with certain claims only, the international search report shall so indicate in respect of such claims, whereas, for the other claims, the said report shall be established as provided in Article 18.

(3)(a) If the International Searching Authority considers that the international application does not comply with the requirement of unity of invention as set forth in the Regulations, it shall invite the applicant to pay additional fees. The International Searching Authority shall establish the international search report on those parts of the international application which relate to the invention first mentioned in the claims ("main invention") and, provided the required additional fees have been paid within the prescribed time limit, on those parts of the international application which relate to inventions in respect of which the said fees were paid.

(b) The national law of any designated State may provide that, where the national Office of that State finds the invitation, referred to in subparagraph (a), of the International Searching Authority justified and where the applicant has not paid all additional fees, those parts of the international application which consequently have not been searched shall, as far as effects in that State are concerned, be considered withdrawn unless a special fee is paid by the applicant to the national Office of that State.

Article 18

The International Search Report

(1) The international search report shall be established within the prescribed time limit and in the prescribed form.

(2) The international search report shall, as soon as it has been established, be transmitted by the International Searching Authority to the applicant and the International Bureau.

(3) The international search report or the declaration referred to in Article 17(2)(a) shall be translated as provided in the Regulations. The translations shall be prepared by or under the responsibility of the International Bureau.

Article 19

Amendment of the Claims before the International Bureau

(1) The applicant shall, after having received the international search report, be entitled to one opportunity to amend the claims of

the international application by filing amendments with the International Bureau within the prescribed time limit. He may, at the same time, file a brief statement, as provided in the Regulations, explaining the amendments and indicating any impact that such amendments might have on the description and the drawings.

(2) The amendments shall not go beyond the disclosure in the international application as filed.

(3) If the national law of any designated State permits amendments to go beyond the said disclosure, failure to comply with paragraph (2) shall have no consequence in that State.

Article 20

Communication to Designated Offices

(1)(a) The international application, together with the international search report (including any indication referred to in Article 17(2)(b)) or the declaration referred to in Article 17(2)(a), shall be communicated to each designated Office, as provided in the Regulations, unless the designated Office waives such requirement in its entirety or in part.

(b) The communication shall include the translation (as prescribed) of the said report or declaration.

(2) If the claims have been amended by virtue of Article 19(1), the communication shall either contain the full text of the claims both as filed and as amended or shall contain the full text of the claims as filed and specify the amendments, and shall include the statement, if any, referred to in Article 19(1).

(3) At the request of the designated Office or the applicant, the International Searching Authority shall send to the said Office or the applicant, respectively, copies of the documents cited in the international search report, as provided in the Regulations.

Article 21

International Publication

(1) The International Bureau shall publish international applications.

(2)(a) Subject to the exceptions provided for in subparagraph (b) and in Article 64(3), the international publication of the international application shall be effected promptly after the expiration of 18 months from the priority date of that application.

(b) The applicant may ask the International Bureau to publish his international application any time before the expiration of the time limit referred to in subparagraph (a). The International Bureau shall proceed accordingly, as provided in the Regulations.

(3) The international search report or the declaration referred to in Article 17(2)(a) shall be published as prescribed in the Regulations.

(4) The language and form of the international publication and other details are governed by the Regulations.

(5) There shall be no international publication if the international application is withdrawn or is considered withdrawn before the technical preparations for publication have been completed.

(6) If the international application contains expressions or drawings which, in the opinion of the International Bureau, are contrary to morality or public order, or if, in its opinion, the international application contains disparaging statements as defined in the Regulations, it may omit such expressions, drawings, and statements, from its publications, indicating the place and number of words or drawings omitted, and furnishing, upon request, individual copies of the passages omitted.

Article 22

Copy, Translation, and Fee, to Designated Offices

(1) The applicant shall furnish a copy of the international application (unless the communication provided for in Article 20 has already taken place) and a translation thereof (as prescribed), and pay the national fee (if any), to each designated Office not later than at the expiration of 20 months from the priority date. Where the national law of the designated State requires the indication of the name of and other prescribed data concerning the inventor but allows that these indications be furnished at a time later than that of the filing of a national application, the applicant shall, unless they were contained in the re-

quest, furnish the said indications to the national Office of or acting for the State not later than at the expiration of 20 months from the priority date.

(2) Where the International Searching Authority makes a declaration, under Article 17(2)(a), that no international search report will be established, the time limit for performing the acts referred to in paragraph (1) of this Article shall be the same as that provided for in paragraph (1).

(3) Any national law may, for performing the acts referred to in paragraphs (1) or (2), fix time limits which expire later than the time limit provided for in those paragraphs.

Article 23

Delaying of National Procedure

(1) No designated Office shall process or examine the international application prior to the expiration of the applicable time limit under Article 22.

(2) Notwithstanding the provisions of paragraph (1), any designated Office may, on the express request of the applicant, process or examine the international application at any time.

Article 24

Possible Loss of Effect in Designated States

(1) Subject, in case (ii) below, to the provisions of Article 25, the effect of the international application provided for in Article 11(3) shall cease in any designated State with the same consequences as the withdrawal of any national application in that State:

(i) if the applicant withdraws his international application or the designation of that State;

(ii) if the international application is considered withdrawn by virtue of Articles 12(3), 14(1)(b), 14(3)(a), or 14(4), or if the designation of that State is considered withdrawn by virtue of Article 14(3)(b);

(iii) if the applicant fails to perform the acts referred to in Article 22 within the applicable time limit.

(2) Notwithstanding the provisions of paragraph (1), any designated Office may maintain the effect provided for in Article 11(3) even where such effect is not required to be maintained by virtue of Article 25(2).

Article 25

Review by Designated Offices

(1)(a) Where the receiving Office has refused to accord an international filing date or has declared that the international application is considered withdrawn, or where the International Bureau has made a finding under Article 12(3), the International Bureau shall promptly send, at the request of the applicant, copies of any document in the file to any of the designated Offices named by the applicant.

(b) Where the receiving Office has declared that the designation of any given State is considered withdrawn, the International Bureau shall promptly send, at the request of the applicant, copies of any document in the file to the national Office of such State.

(c) The request under subparagraphs (a) or (b) shall be presented within the prescribed time limit.

(2)(a) Subject to the provisions of subparagraph (b), each designated Office shall, provided that the national fee (if any) has been paid and the appropriate translation (as prescribed) has been furnished within the prescribed time limit, decide whether the refusal, declaration, or finding, referred to in paragraph (1) was justified under the provisions of this Treaty and the Regulations, and, if it finds that the refusal or declaration was the result of an error or omission on the part of the receiving Office or that the finding was the result of an error or omission on the part of the International Bureau, it shall, as far as effects in the State of the designated Office are concerned, treat the international application as if such error or omission had not occurred.

(b) Where the record copy has reached the International Bureau after the expiration of the time limit prescribed under Article 12(3) on account of any error or omission on the part of the appli-

cant, the provisions of subparagraph (a) shall apply only under the circumstances referred to in Article 48(2).

Article 26

Opportunity to Correct before Designated Offices

No designated Office shall reject an international application on the grounds of non-compliance with the requirements of this Treaty and the Regulations without first giving the applicant the opportunity to correct the said application to the extent and according to the procedure provided by the national law for the same or comparable situations in respect of national applications.

Article 27

National Requirements

(1) No national law shall require compliance with requirements relating to the form or contents of the international application different from or additional to those which are provided for in this Treaty and the Regulations.

(2) The provisions of paragraph (1) neither affect the application of the provisions of Article 7(2) nor preclude any national law from requiring, once the processing of the international application has started in the designated Office, the furnishing:

(i) when the applicant is a legal entity, of the name of an officer entitled to represent such legal entity,

(ii) of documents not part of the international application but which constitute proof of allegations or statements made in that application, including the confirmation of the international application by the signature of the applicant when that application, as filed, was signed by his representative or agent.

(3) Where the applicant, for the purposes of any designated State, is not qualified according to the national law of that State to file a national application because he is not the inventor, the international application may be rejected by the designated Office.

(4) Where the national law provides, in respect of the form or contents of national applications, for requirements which, from the view-

point of applicants, are more favorable than the requirements provided for by this Treaty and the Regulations in respect of international applications, the national Office, the courts and any other competent organs of or acting for the designated State may apply the former requirements, instead of the latter requirements, to international applications, except where the applicant insists that the requirements provided for by this Treaty and the Regulations be applied to his international application.

(5) Nothing in this Treaty and the Regulations is intended to be construed as prescribing anything that would limit the freedom of each Contracting State to prescribe such substantive conditions of patentability as it desires. In particular, any provision in this Treaty and the Regulations concerning the definition of prior art is exclusively for the purposes of the international procedure and, consequently, any Contracting State is free to apply, when determining the patentability of an invention claimed in an international application, the criteria of its national law in respect of prior art and other conditions of patentability not constituting requirements as to the form and contents of applications.

(6) The national law may require that the applicant furnish evidence in respect of any substantive condition of patentability prescribed by such law.

(7) Any receiving Office or, once the processing of the international application has started in the designated Office, that Office may apply the national law as far as it relates to any requirement that the applicant be represented by an agent having the right to represent applicants before the said Office and/or that the applicant have an address in the designated State for the purpose of receiving notifications.

(8) Nothing in this Treaty and the Regulations is intended to be construed as limiting the freedom of any Contracting State to apply measures deemed necessary for the preservation of its national security or to limit, for the protection of the general economic interests of that State, the right of its own residents or nationals to file international applications.

Article 28

Amendment of the Claims, the Description, and the Drawings, before Designated Offices

(1) The applicant shall be given the opportunity to amend the claims, the description, and the drawings, before each designated Office within the prescribed time limit. No designated Office shall grant a patent, or refuse the grant of a patent, before such time limit has expired except with the express consent of the applicant.

(2) The amendments shall not go beyond the disclosure in the international application as filed unless the national law of the designated State permits them to go beyond the said disclosure.

(3) The amendments shall be in accordance with the national law of the designated State in all respects not provided for in this Treaty and the Regulations.

(4) Where the designated Office requires a translation of the international application, the amendments shall be in the language of the translation.

Article 29

Effects of the International Publication

(1) As far as the protection of any rights of the applicant in a designated State is concerned, the effects, in that State, of the international publication of an international application shall, subject to the provisions of paragraphs (2) to (4), be the same as those which the national law of the designated State provides for the compulsory national publication of unexamined national applications as such.

(2) If the language in which the international publication has been effected is different from the language in which publications under the national law are effected in the designated State, the said national law may provide that the effects provided for in paragraph (1) shall be applicable only from such time as:

(i) a translation into the latter language has been published as provided by the national law, or

(ii) a translation into the latter language has been made available to the public, by laying open for public inspection as provided by the national law, or

(iii) a translation into the latter language has been transmitted by the applicant to the actual or prospective unauthorized user of the invention claimed in the international application, or

(iv) both the acts described in (i) and (iii), or both the acts described in (ii) and (iii), have taken place.

(3) The national law of any designated State may provide that, where the international publication has been effected, on the request of the applicant, before the expiration of 18 months from the priority date, the effects provided for in paragraph (1) shall be applicable only from the expiration of 18 months from the priority date.

(4) The national law of any designated State may provide that the effects provided for in paragraph (1) shall be applicable only from the date on which a copy of the international application as published under Article 21 has been received in the national Office of or acting for such State. The said Office shall publish the date of receipt in its gazette as soon as possible.

Article 30

Confidential Nature of the International Application

(1)(a) Subject to the provisions of subparagraph (b), the International Bureau and the International Searching Authorities shall not allow access by any person or authority to the international application before the international publication of that application, unless requested or authorized by the applicant.

(b) The provisions of subparagraph (a) shall not apply to any transmittal to the competent International Searching Authority, to transmittals provided for under Article 13, and to communications provided for under Article 20.

(2)(a) No national Office shall allow access to the international application by third parties, unless requested or authorized by the applicant, before the earliest of the following dates:

(i) date of the international publication of the international application,

(ii) date of the receipt of the communication of the international application under Article 20,

(iii) date of the receipt of a copy of the international application under Article 22.

(b) The provisions of subparagraph (a) shall not prevent any national Office from informing third parties that it has been designated, or from publishing that fact. Such information or publication may, however, contain only the following data: identification of the receiving Office, name of the applicant, international filing date, international application number, and title of the invention.

(c) The provisions of subparagraph (a) shall not prevent any designated Office from allowing access to the international application for the purposes of the judicial authorities.

(3) The provisions of paragraph (2)(a) shall apply to any receiving Office except as far as transmittals provided for under Article 12(1) are concerned.

(4) For the purposes of this Article, the term "access" covers any means by which third parties may acquire cognizance, including individual communication and general publication, provided, however, that no national Office shall generally publish an international application or its translation before the international publication or, if international publication has not taken place by the expiration of 20 months from the priority date, before the expiration of 20 months from the said priority date.

CHAPTER II

International Preliminary Examination

Article 31

Demand for International Preliminary Examination

(1) On the demand of the applicant, his international application shall be the subject of an international preliminary examination as provided in the following provisions and the Regulations.

(2)(a) Any applicant who is a resident or national, as defined in the Regulations, of a Contracting State bound by Chapter II, and whose international application has been filed with the receiving Office of or acting for such State, may make a demand for international preliminary examination.

(b) The Assembly may decide to allow persons entitled to file international applications to make a demand for international preliminary examination even if they are residents or nationals of a State not party to this Treaty or not bound by Chapter II.

(3) The demand for international preliminary examination shall be made separately from the international application. The demand shall contain the prescribed particulars and shall be in the prescribed language and form.

(4)(a) The demand shall indicate the Contracting State or States in which the applicant intends to use the results of the international preliminary examination ("elected States"). Additional Contracting States may be elected later. Election may relate only to Contracting States already designated under Article 4.

(b) Applicants referred to in paragraph (2)(a) may elect any Contracting State bound by Chapter II. Applicants referred to in paragraph (2)(b) may elect only such Contracting States bound by Chapter II as have declared that they are prepared to be elected by such applicants.

(5) The demand shall be subject to the payment of the prescribed fees within the prescribed time limit.

(6)(a) The demand shall be submitted to the competent International Preliminary Examining Authority referred to in Article 32.

(b) Any later election shall be submitted to the International Bureau.

(7) Each elected Office shall be notified of its election.

Article 32

The International Preliminary Examining Authority

(1) International preliminary examination shall be carried out by the International Preliminary Examining Authority.

(2) In the case of demands referred to in Article 31(2)(a), the receiving Office, and, in the case of demands referred to in Article 31(2)(b), the Assembly, shall, in accordance with the applicable agreement between the interested International Preliminary Examining Authority or Authorities and the International Bureau, specify the International Preliminary Examining Authority or Authorities competent for the preliminary examination.

(3) The provisions of Article 16(3) shall apply, *mutatis mutandis*, in respect of International Preliminary Examining Authorities.

Article 33

The International Preliminary Examination

(1) The objective of the international preliminary examination is to formulate a preliminary and non-binding opinion on the questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), and to be industrially applicable.

(2) For the purposes of the international preliminary examination, a claimed invention shall be considered novel if it is not anticipated by the prior art as defined in the Regulations.

(3) For the purposes of the international preliminary examination, a claimed invention shall be considered to involve an inventive step if, having regard to the prior art as defined in the Regulations, it is not, at the prescribed relevant date, obvious to a person skilled in the art.

(4) For the purposes of the international preliminary examination, a claimed invention shall be considered industrially applicable if, according to its nature, it can be made or used (in the technological sense) in any kind of industry. "Industry" shall be understood in its broadest sense, as in the Paris Convention for the Protection of Industrial Property.

(5) The criteria described above merely serve the purposes of international preliminary examination. Any Contracting State may apply additional or different criteria for the purpose of deciding whether, in that State, the claimed invention is patentable or not.

(6) The international preliminary examination shall take into consideration all the documents cited in the international search report. It

may take into consideration any additional documents considered to be relevant in the particular case.

Article 34

Procedure before the International Preliminary Examining Authority

(1) Procedure before the International Preliminary Examining Authority shall be governed by the provisions of this Treaty, the Regulations, and the agreement which the International Bureau shall conclude, subject to this Treaty and the Regulations, with the said Authority.

(2)(a) The applicant shall have a right to communicate orally and in writing with the International Preliminary Examining Authority.

(b) The applicant shall have a right to amend the claims, the description, and the drawings, in the prescribed manner and within the prescribed time limit, before the international preliminary examination report is established. The amendment shall not go beyond the disclosure in the international application as filed.

(c) The applicant shall receive at least one written opinion from the International Preliminary Examining Authority unless such Authority considers that all of the following conditions are fulfilled:

(i) the invention satisfies the criteria set forth in Article 33(1),

(ii) the international application complies with the requirements of this Treaty and the Regulations in so far as checked by that Authority,

(iii) no observations are intended to be made under Article 35(2), last sentence.

(d) The applicant may respond to the written opinion.

(3)(a) If the International Preliminary Examining Authority considers that the international application does not comply with the requirement of unity of invention as set forth in the Regulations, it may invite the applicant, at his option, to restrict the claims so as to comply with the requirement or to pay additional fees.

(b) The national law of any elected State may provide that, where the applicant chooses to restrict the claims under subparagraph (a), those parts of the international application which, as a consequence of the restriction, are not to be the subject of international preliminary examination shall, as far as effects in that State are concerned, be considered withdrawn unless a special fee is paid by the applicant to the national Office of that State.

(c) If the applicant does not comply with the invitation referred to in subparagraph (a) within the prescribed time limit, the International Preliminary Examining Authority shall establish an international preliminary examination report on those parts of the international application which relate to what appears to be the main invention and shall indicate the relevant facts in the said report. The national law of any elected State may provide that, where its national Office finds the invitation of the International Preliminary Examining Authority justified, those parts of the international application which do not relate to the main invention shall, as far as effects in that State are concerned, be considered withdrawn unless a special fee is paid by the applicant to that Office.

(4)(a) If the International Preliminary Examining Authority considers

- (i) that the international application relates to a subject matter on which the International Preliminary Examining Authority is not required, under the Regulations, to carry out an international preliminary examination, and in the particular case decides not to carry out such examination, or
- (ii) that the description, the claims, or the drawings, are so unclear, or the claims are so inadequately supported by the description, that no meaningful opinion can be formed on the novelty, inventive step (non-obviousness), or industrial applicability, of the claimed invention,

the said Authority shall not go into the questions referred to in Article 33(1) and shall inform the applicant of this opinion and the reasons therefor.

(b) If any of the situations referred to in subparagraph (a) is found to exist in, or in connection with, certain claims only, the provisions of that subparagraph shall apply only to the said claims.

Article 35

The International Preliminary Examination Report

(1) The international preliminary examination report shall be established within the prescribed time limit and in the prescribed form.

(2) The international preliminary examination report shall not contain any statement on the question whether the claimed invention is or seems to be patentable or unpatentable according to any national law. It shall state, subject to the provisions of paragraph (3), in relation to each claim, whether the claim appears to satisfy the criteria of novelty, inventive step (non-obviousness), and industrial applicability, as defined for the purposes of the international preliminary examination in Article 33(1) to (4). The statement shall be accompanied by the citation of the documents believed to support the stated conclusion with such explanations as the circumstances of the case may require. The statement shall also be accompanied by such other observations as the Regulations provide for.

(3)(a) If, at the time of establishing the international preliminary examination report, the International Preliminary Examining Authority considers that any of the situations referred to in Article 34(4)(a) exists, that report shall state this opinion and the reasons therefor. It shall not contain any statement as provided in paragraph (2).

(b) If a situation under Article 34(4)(b) is found to exist, the international preliminary examination report shall, in relation to the claims in question, contain the statement as provided in subparagraph (a), whereas, in relation to the other claims, it shall contain the statement as provided in paragraph (2).

Article 36

Transmittal, Translation, and Communication, of the International Preliminary Examination Report

(1) The international preliminary examination report, together with the prescribed annexes, shall be transmitted to the applicant and to the International Bureau.

(2)(a) The international preliminary examination report and its annexes shall be translated into the prescribed languages.

(b) Any translation of the said report shall be prepared by or under the responsibility of the International Bureau, whereas any translation of the said annexes shall be prepared by the applicant.

(3)(a) The international preliminary examination report, together with its translation (as prescribed) and its annexes (in the original language), shall be communicated by the International Bureau to each elected Office.

(b) The prescribed translation of the annexes shall be transmitted within the prescribed time limit by the applicant to the elected Offices.

(4) The provisions of Article 20(3) shall apply, *mutatis mutandis*, to copies of any document which is cited in the international preliminary examination report and which was not cited in the international search report.

Article 37

Withdrawal of Demand or Election

(1) The applicant may withdraw any or all elections.

(2) If the election of all elected States is withdrawn, the demand shall be considered withdrawn.

(3)(a) Any withdrawal shall be notified to the International Bureau.

(b) The elected Offices concerned and the International Preliminary Examining Authority concerned shall be notified accordingly by the International Bureau.

(4)(a) Subject to the provisions of subparagraph (b), withdrawal of the demand or of the election of a Contracting State shall, unless the national law of that State provides otherwise, be considered to be

withdrawal of the international application as far as that State is concerned.

(b) Withdrawal of the demand or of the election shall not be considered to be withdrawal of the international application if such withdrawal is effected prior to the expiration of the applicable time limit under Article 22; however, any Contracting State may provide in its national law that the aforesaid shall apply only if its national Office has received, within the said time limit, a copy of the international application, together with a translation (as prescribed), and the national fee.

Article 38

Confidential Nature of the International Preliminary Examination

(1) Neither the International Bureau nor the International Preliminary Examining Authority shall, unless requested or authorized by the applicant, allow access within the meaning, and with the proviso, of Article 30(4) to the file of the international preliminary examination by any person or authority at any time, except by the elected Offices once the international preliminary examination report has been established.

(2) Subject to the provisions of paragraph (1) and Articles 36(1) and (3) and 37(3)(b), neither the International Bureau nor the International Preliminary Examining Authority shall, unless requested or authorized by the applicant, give information on the issuance or non-issuance of an international preliminary examination report and on the withdrawal or nonwithdrawal of the demand or of any election.

Article 39

Copy, Translation, and Fee, to Elected Offices

(1)(a) If the election of any Contracting State has been effected prior to the expiration of the 19th month from the priority date, the provisions of Article 22 shall not apply to such State and the applicant

shall furnish a copy of the international application (unless the communication under Article 20 has already taken place) and a translation thereof (as prescribed), and pay the national fee (if any), to each elected Office not later than at the expiration of 30 months from the priority date.

(b) Any national law may, for performing the acts referred to in subparagraph (a), fix time limits which expire later than the time limit provided for in that subparagraph.

(2) The effect provided for in Article 11(3) shall cease in the elected State with the same consequences as the withdrawal of any national application in that State if the applicant fails to perform the acts referred to in paragraph (1)(a) within the time limit applicable under paragraph (1)(a) or (b).

(3) Any elected Office may maintain the effect provided for in Article 11(3) even where the applicant does not comply with the requirements provided for in paragraph (1)(a) or (b).

Article 40

Delaying of National Examination and Other Processing

(1) If the election of any Contracting State has been effected prior to the expiration of the 19th month from the priority date, the provisions of Article 23 shall not apply to such State and the national Office of or acting for that State shall not proceed, subject to the provisions of paragraph (2), to the examination and other processing of the international application prior to the expiration of the applicable time limit under Article 39.

(2) Notwithstanding the provisions of paragraph (1), any elected Office may, on the express request of the applicant, proceed to the examination and other processing of the international application at any time.

Article 41

Amendment of the Claims, the Description, and the Drawings, before Elected Offices

(1) The applicant shall be given the opportunity to amend the claims, the description, and the drawings, before each elected Office

within the prescribed time limit. No elected Office shall grant a patent, or refuse the grant of a patent, before such time limit has expired, except with the express consent of the applicant.

(2) The amendments shall not go beyond the disclosure in the international application as filed, unless the national law of the elected State permits them to go beyond the said disclosure.

(3) The amendments shall be in accordance with the national law of the elected State in all respects not provided for in this Treaty and the Regulations.

(4) Where an elected Office requires a translation of the international application, the amendments shall be in the language of the translation.

Article 42

Results of National Examination in Elected Offices

No elected Office receiving the international preliminary examination report may require that the applicant furnish copies, or information on the contents, of any papers connected with the examination relating to the same international application in any other elected Office.

CHAPTER III

Common Provisions

Article 43

Seeking Certain Kinds of Protection

In respect of any designated or elected State whose law provides for the grant of inventors' certificates, utility certificates, utility models, patents or certificates of addition, inventors' certificates of addition, or utility certificates of addition, the applicant may indicate, as prescribed in the Regulations, that his international application is for the grant, as far as that State is concerned, of an inventor's certificate, a utility certificate, or a utility model, rather than a patent, or that it is for the grant of a patent or certificate of addition, an inventor's certificate of addition, or a utility certificate of addition, and the ensuing effect shall be governed by the applicant's choice. For the purposes of this Article and any Rule thereunder, Article 2(ii) shall not apply.

Article 44

Seeking Two Kinds of Protection

In respect of any designated or elected State whose law permits an application, while being for the grant of a patent or one of the other kinds of protection referred to in Article 43, to be also for the grant of another of the said kinds of protection, the applicant may indicate, as prescribed in the Regulations, the two kinds of protection he is seeking, and the ensuing effect shall be governed by the applicant's indications. For the purposes of this Article, Article 2(ii) shall not apply.

Article 45

Regional Patent Treaties

(1) Any treaty providing for the grant of regional patents ("regional patent treaty"), and giving to all persons who, according to Article 9, are entitled to file international applications the right to file applications for such patents, may provide that international applications designating or electing a State party to both the regional patent treaty and the present Treaty may be filed as applications for such patents.

(2) The national law of the said designated or elected State may provide that any designation or election of such State in the international application shall have the effect of an indication of the wish to obtain a regional patent under the regional patent treaty.

Article 46

Incorrect Translation of the International Application

If, because of an incorrect translation of the international application, the scope of any patent granted on that application exceeds the scope of the international application in its original language, the competent authorities of the Contracting State concerned may accordingly and retroactively limit the scope of the patent, and declare it null and void to the extent that its scope has exceeded the scope of the international application in its original language.

Article 47
Time Limits

(1) The details for computing time limits referred to in this Treaty are governed by the Regulations.

(2)(a) All time limits fixed in Chapters I and II of this Treaty may, outside any revision under Article 60, be modified by a decision of the Contracting States.

(b) Such decisions shall be made in the Assembly or through voting by correspondence and must be unanimous.

(c) The details of the procedure are governed by the Regulations.

Article 48
Delay in Meeting Certain Time Limits

(1) Where any time limit fixed in this Treaty or the Regulations is not met because of interruption in the mail service or unavoidable loss or delay in the mail, the time limit shall be deemed to be met in the cases and subject to the proof and other conditions prescribed in the Regulations.

(2)(a) Any Contracting State shall, as far as that State is concerned, excuse, for reasons admitted under its national law, any delay in meeting any time limit.

(b) Any Contracting State may, as far as that State is concerned, excuse, for reasons other than those referred to in subparagraph (a), any delay in meeting any time limit.

Article 49
Right to Practice before International Authorities

Any attorney, patent agent, or other person, having the right to practice before the national Office with which the international application was filed, shall be entitled to practice before the International Bureau and the competent International Searching Authority and competent International Preliminary Examining Authority in respect of that application.

CHAPTER IV
Technical Services

Article 50

Patent Information Services

(1) The International Bureau may furnish services by providing technical and any other pertinent information available to it on the basis of published documents, primarily patents and published applications (referred to in this Article as "the information services").

(2) The International Bureau may provide these information services either directly or through one or more International Searching Authorities or other national or international specialized institutions, with which the International Bureau may reach agreement.

(3) The information services shall be operated in a way particularly facilitating the acquisition by Contracting States which are developing countries of technical knowledge and technology, including available published know-how.

(4) The information services shall be available to Governments of Contracting States and their nationals and residents. The Assembly may decide to make these services available also to others.

(5)(a) Any service to Governments of Contracting States shall be furnished at cost, provided that, when the Government is that of a Contracting State which is a developing country, the service shall be furnished below cost if the difference can be covered from profit made on services furnished to others than Governments of Contracting States or from the sources referred to in Article 51(4).

(b) The cost referred to in subparagraph (a) is to be understood as cost over and above costs normally incident to the performance of the services of a national Office or the obligations of an International Searching Authority.

(6) The details concerning the implementation of the provisions of this Article shall be governed by decisions of the Assembly and, within the limits to be fixed by the Assembly, such working groups as the Assembly may set up for that purpose.

(7) The Assembly shall, when it considers it necessary, recommend methods of providing financing supplementary to those referred to in paragraph (5).

Article 51

Technical Assistance

(1) The Assembly shall establish a Committee for Technical Assistance (referred to in this Article as "the Committee").

(2)(a) The members of the Committee shall be elected among the Contracting States, with due regard to the representation of developing countries.

(b) The Director General shall, on his own initiative or at the request of the Committee, invite representatives of intergovernmental organizations concerned with technical assistance to developing countries to participate in the work of the Committee.

(3)(a) The task of the Committee shall be to organize and supervise technical assistance for Contracting States which are developing countries in developing their patent systems individually or on a regional basis.

(b) The technical assistance shall comprise, among other things, the training of specialists, the loaning of experts, and the supply of equipment both for demonstration and for operational purposes.

(4) The International Bureau shall seek to enter into agreements, on the one hand, with international financing organizations and intergovernmental organizations, particularly the United Nations, the agencies of the United Nations, and the Specialized Agencies connected with the United Nations concerned with technical assistance, and, on the other hand, with the Governments of the States receiving the technical assistance, for the financing of projects pursuant to this Article.

(5) The details concerning the implementation of the provisions of this Article shall be governed by decisions of the Assembly and, within the limits to be fixed by the Assembly, such working groups as the Assembly may set up for that purpose.

Article 52

Relations with Other Provisions of the Treaty

Nothing in this Chapter shall affect the financial provisions contained in any other Chapter of this Treaty. Such provisions are not applicable to the present Chapter or to its implementation.

CHAPTER V

Administrative Provisions

Article 53

Assembly

(1)(a) The Assembly shall, subject to Article 57(8), consist of the Contracting States.

(b) The Government of each Contracting State shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(2)(a) The Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Union and the implementation of this Treaty;

(ii) perform such tasks as are specifically assigned to it under other provisions of this Treaty;

(iii) give directions to the International Bureau concerning the preparation for revision conferences;

(iv) review and approve the reports and activities of the Director General concerning the Union, and give him all necessary instructions concerning matters within the competence of the Union;

(v) review and approve the reports and activities of the Executive Committee established under paragraph (9), and give instructions to such Committee;

(vi) determine the program and adopt the triennial * budget of the Union, and approve its final accounts;

* *Editor's Note:* Since 1980, the budget of the Union has been biennial.

(vii) adopt the financial regulations of the Union;

(viii) establish such committees and working groups as it deems appropriate to achieve the objectives of the Union;

(ix) determine which States other than Contracting States and, subject to the provisions of paragraph (8), which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

(x) take any other appropriate action designed to further the objectives of the Union and perform such other functions as are appropriate under this Treaty.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3) A delegate may represent, and vote in the name of, one State only.

(4) Each Contracting State shall have one vote.

(5)(a) One-half of the Contracting States shall constitute a quorum.

(b) In the absence of the quorum, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the quorum and the required majority are attained through voting by correspondence as provided in the Regulations.

(6)(a) Subject to the provisions of Articles 47(2)(b), 58(2)(b), 58(3) and 61(2)(b), the decisions of the Assembly shall require two-thirds of the votes cast.

(b) Abstentions shall not be considered as votes.

(7) In connection with matters of exclusive interest to States bound by Chapter II, any reference to Contracting States in paragraphs (4), (5), and (6), shall be considered as applying only to States bound by Chapter II.

(8) Any intergovernmental organization appointed as International Searching or Preliminary Examining Authority shall be admitted as observer to the Assembly.

(9) When the number of Contracting States exceeds forty, the Assembly shall establish an Executive Committee. Any reference to the Executive Committee in this Treaty and the Regulations shall be construed as references to such Committee once it has been established.

(10) Until the Executive Committee has been established, the Assembly shall approve, within the limits of the program and triennial budget, the annual programs and budgets prepared by the Director General.*

(11)(a) The Assembly shall meet in every second calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, at the request of the Executive Committee, or at the request of one-fourth of the Contracting States.

(12) The Assembly shall adopt its own rules of procedure.

Article 54

Executive Committee

(1) When the Assembly has established an Executive Committee, that Committee shall be subject to the provisions set forth hereinafter.

(2)(a) The Executive Committee shall, subject to Article 57(8), consist of States elected by the Assembly from among States members of the Assembly.

(b) The Government of each State member of the Executive Committee shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(3) The number of States members of the Executive Committee shall correspond to one-fourth of the number of States members of the Assembly. In establishing the number of seats to be filled, remainders after division by four shall be disregarded.

(4) In electing the members of the Executive Committee, the Assembly shall have due regard to an equitable geographical distribution.

* *Editor's Note:* Since 1980, the program and budget of the Union have been biennial.

(5)(a) Each member of the Executive Committee shall serve from the close of the session of the Assembly which elected it to the close of the next ordinary session of the Assembly.

(b) Members of the Executive Committee may be re-elected but only up to a maximum of two-thirds of such members.

(c) The Assembly shall establish the details of the rules governing the election and possible re-election of the members of the Executive Committee.

(6)(a) The Executive Committee shall:

(i) prepare the draft agenda of the Assembly;

(ii) submit proposals to the Assembly in respect of the draft program and biennial budget of the Union prepared by the Director General;

(iii) *[deleted]*

(iv) submit, with appropriate comments, to the Assembly the periodical reports of the Director General and the yearly audit reports on the accounts;

(v) take all necessary measures to ensure the execution of the program of the Union by the Director General, in accordance with the decisions of the Assembly and having regard to circumstances arising between two ordinary sessions of the Assembly;

(vi) perform such other functions as are allocated to it under this Treaty.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Executive Committee shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(7)(a) The Executive Committee shall meet once a year in ordinary session upon convocation by the Director General, preferably during the same period and at the same place as the Coordination Committee of the Organization.

(b) The Executive Committee shall meet in extraordinary session upon convocation by the Director General, either on his own initiative or at the request of its Chairman or one-fourth of its members.

(8)(a) Each State member of the Executive Committee shall have one vote.

(b) One-half of the members of the Executive Committee shall constitute a quorum.

(c) Decisions shall be made by a simple majority of the votes cast.

(d) Abstentions shall not be considered as votes.

(e) A delegate may represent, and vote in the name of, one State only.

(9) Contracting States not members of the Executive Committee shall be admitted to its meetings as observers, as well as any intergovernmental organization appointed as International Searching or Preliminary Examining Authority.

(10) The Executive Committee shall adopt its own rules of procedure.

Article 55

International Bureau

(1) Administrative tasks concerning the Union shall be performed by the International Bureau.

(2) The International Bureau shall provide the secretariat of the various organs of the Union.

(3) The Director General shall be the chief executive of the Union and shall represent the Union.

(4) The International Bureau shall publish a Gazette and other publications provided for by the Regulations or required by the Assembly.

(5) The Regulations shall specify the services that national Offices shall perform in order to assist the International Bureau and the International Searching and Preliminary Examining Authorities in carrying out their tasks under this Treaty.

(6) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the Executive Committee and any other committee or working

group established under this Treaty or the Regulations. The Director General, or a staff member designated by him, shall be *ex officio* secretary of these bodies.

(7)(a) The International Bureau shall, in accordance with the directions of the Assembly and in cooperation with the Executive Committee, make the preparations for the revision conferences.

(b) The International Bureau may consult with intergovernmental and international non-governmental organizations concerning preparations for revision conferences.

(c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at revision conferences.

(8) The International Bureau shall carry out any other tasks assigned to it.

Article 56

Committee for Technical Cooperation

(1) The Assembly shall establish a Committee for Technical Cooperation (referred to in this Article as "the Committee").

(2)(a) The Assembly shall determine the composition of the Committee and appoint its members, with due regard to an equitable representation of developing countries.

(b) The International Searching and Preliminary Examining Authorities shall be *ex officio* members of the Committee. In the case where such an Authority is the national Office of a Contracting State, that State shall not be additionally represented on the Committee.

(c) If the number of Contracting States so allows, the total number of members of the Committee shall be more than double the number of *ex officio* members.

(d) The Director General shall, on his own initiative or at the request of the Committee, invite representatives of interested organizations to participate in discussions of interest to them.

(3) The aim of the Committee shall be to contribute, by advice and recommendations:

(i) to the constant improvement of the services provided for under this Treaty,

(ii) to the securing, so long as there are several International Searching Authorities and several International Preliminary Examining Authorities, of the maximum degree of uniformity in their documentation and working methods and the maximum degree of uniformly high quality in their reports, and

(iii) on the initiative of the Assembly or the Executive Committee, to the solution of the technical problems specifically involved in the establishment of a single International Searching Authority.

(4) Any Contracting State and any interested international organization may approach the Committee in writing on questions which fall within the competence of the Committee.

(5) The Committee may address its advice and recommendations to the Director General or, through him, to the Assembly, the Executive Committee, all or some of the International Searching and Preliminary Examining Authorities, and all or some of the receiving Offices.

(6)(a) In any case, the Director General shall transmit to the Executive Committee the texts of all the advice and recommendations of the Committee. He may comment on such texts.

(b) The Executive Committee may express its views on any advice, recommendation, or other activity of the Committee, and may invite the Committee to study and report on questions falling within its competence. The Executive Committee may submit to the Assembly, with appropriate comments, the advice, recommendations and report of the Committee.

(7) Until the Executive Committee has been established, references in paragraph (6) to the Executive Committee shall be construed as references to the Assembly.

(8) The details of the procedure of the Committee shall be governed by the decisions of the Assembly.

Article 57

Finances

(1)(a) The Union shall have a budget.

(b) The budget of the Union shall include the income and expenses proper to the Union and its contribution to the budget of expenses common to the Unions administered by the Organization.

(c) Expenses not attributable exclusively to the Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Union in such common expenses shall be in proportion to the interest the Union has in them.

(2) The budget of the Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.

(3) Subject to the provisions of paragraph (5), the budget of the Union shall be financed from the following sources:

(i) fees and charges due for services rendered by the International Bureau in relation to the Union;

(ii) sale of, or royalties on, the publications of the International Bureau concerning the Union;

(iii) gifts, bequests, and subventions;

(iv) rents, interests, and other miscellaneous income.

(4) The amounts of fees and charges due to the International Bureau and the prices of its publications shall be so fixed that they should, under normal circumstances, be sufficient to cover all the expenses of the International Bureau connected with the administration of this Treaty.

(5)(a) Should any financial year close with a deficit, the Contracting States shall, subject to the provisions of subparagraphs (b) and (c), pay contributions to cover such deficit.

(b) The amount of the contribution of each Contracting State shall be decided by the Assembly with due regard to the number of international applications which has emanated from each of them in the relevant year.

(c) If other means of provisionally covering any deficit or any part thereof are secured, the Assembly may decide that such deficit be carried forward and that the Contracting States should not be asked to pay contributions.

(d) If the financial situation of the Union so permits, the Assembly may decide that any contributions paid under subparagraph (a) be reimbursed to the Contracting States which have paid them.

(e) A Contracting State which has not paid, within two years of the due date as established by the Assembly, its contribution under subparagraph (b) may not exercise its right to vote in any of the organs of the Union. However, any organ of the Union may allow such a State to continue to exercise its right to vote in that organ so long as it is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.

(6) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, as provided in the financial regulations.

(7)(a) The Union shall have a working capital fund which shall be constituted by a single payment made by each Contracting State. If the fund becomes insufficient, the Assembly shall arrange to increase it. If part of the fund is no longer needed, it shall be reimbursed.

(b) The amount of the initial payment of each Contracting State to the said fund or of its participation in the increase thereof shall be decided by the Assembly on the basis of principles similar to those provided for under paragraph (5)(b).

(c) The terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee of the Organization.

(d) Any reimbursement shall be proportionate to the amounts paid by each Contracting State, taking into account the dates at which they were paid.

(8)(a) In the headquarters agreement concluded with the State on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such

State shall grant advances. The amount of these advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such State and the Organization. As long as it remains under the obligation to grant advances, such State shall have an *ex officio* seat in the Assembly and on the Executive Committee.

(b) The State referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(9) The auditing of the accounts shall be effected by one or more of the Contracting States or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

Article 58 Regulations

(1) The Regulations annexed to this Treaty provide Rules:

(i) concerning matters in respect of which this Treaty expressly refers to the Regulations or expressly provides that they are or shall be prescribed,

(ii) concerning any administrative requirements, matters, or procedures,

(iii) concerning any details useful in the implementation of the provisions of this Treaty.

(2)(a) The Assembly may amend the Regulations.

(b) Subject to the provisions of paragraph (3), amendments shall require three-fourths of the votes cast.

(3)(a) The Regulations specify the Rules which may be amended

(i) only by unanimous consent, or

(ii) only if none of the Contracting States whose national Office acts as an International Searching or Preliminary Examining Authority dissents, and, where such Authority is an intergovernmental organization, if the Contracting State member of that organization au-

thorized for that purpose by the other member States within the competent body of such organization does not dissent.

(b) Exclusion, for the future, of any such Rules from the applicable requirement shall require the fulfillment of the conditions referred to in subparagraph (a)(i) or (a)(ii), respectively.

(c) Inclusion, for the future, of any Rule in one or the other of the requirements referred to in subparagraph (a) shall require unanimous consent.

(4) The Regulations provide for the establishment, under the control of the Assembly, of Administrative Instructions by the Director General.

(5) In the case of conflict between the provisions of the Treaty and those of the Regulations, the provisions of the Treaty shall prevail.

CHAPTER VI

Disputes

Article 59

Disputes

Subject to Article 64(5), any dispute between two or more Contracting States concerning the interpretation or application of this Treaty or the Regulations, not settled by negotiation, may, by any one of the States concerned, be brought before the International Court of Justice by application in conformity with the Statute of the Court, unless the States concerned agree on some other method of settlement. The Contracting State bringing the dispute before the Court shall inform the International Bureau; the International Bureau shall bring the matter to the attention of the other Contracting States.

CHAPTER VII
Revision and Amendment

Article 60

Revision of the Treaty

(1) This Treaty may be revised from time to time by a special conference of the Contracting States.

(2) The convocation of any revision conference shall be decided by the Assembly.

(3) Any intergovernmental organization appointed as International Searching or Preliminary Examining Authority shall be admitted as observer to any revision conference.

(4) Articles 53(5), (9) and (11), 54, 55(4) to (8), 56, and 57, may be amended either by a revision conference or according to the provisions of Article 61.

Article 61

Amendment of Certain Provisions of the Treaty

(1)(a) Proposals for the amendment of Articles 53(5), (9) and (11), 54, 55(4) to (8), 56, and 57, may be initiated by any State member of the Assembly, by the Executive Committee, or by the Director General.

(b) Such proposals shall be communicated by the Director General to the Contracting States at least six months in advance of their consideration by the Assembly.

(2)(a) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly.

(b) Adoption shall require three-fourths of the votes cast.

(3)(a) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the States members of the Assembly at the time it adopted the amendment.

(b) Any amendment to the said Articles thus accepted shall bind all the States which are members of the Assembly at the time the amendment enters into force, provided that any amendment increasing the financial obligations of the Contracting States shall bind only those States which have notified their acceptance of such amendment.

(c) Any amendment accepted in accordance with the provisions of subparagraph (a) shall bind all States which become members of the Assembly after the date on which the amendment entered into force in accordance with the provisions of subparagraph (a).

CHAPTER VIII

Final Provisions

Article 62

Becoming Party to the Treaty

(1) Any State member of the International Union for the Protection of Industrial Property may become party to this Treaty by:

(i) signature followed by the deposit of an instrument of ratification, or

(ii) deposit of an instrument of accession.

(2) Instruments of ratification or accession shall be deposited with the Director General.

(3) The provisions of Article 24 of the Stockholm Act of the Paris Convention for the Protection of Industrial Property shall apply to this Treaty.

(4) Paragraph (3) shall in no way be understood as implying the recognition or tacit acceptance by a Contracting State of the factual situation concerning a territory to which this Treaty is made applicable by another Contracting State by virtue of the said paragraph.

Article 63

Entry into Force of the Treaty

(1)(a) Subject to the provisions of paragraph (3), this Treaty shall enter into force three months after eight States have deposited their in-

struments of ratification or accession, provided that at least four of those States each fulfill any of the following conditions:

(i) the number of applications filed in the State has exceeded 40,000 according to the most recent annual statistics published by the International Bureau,

(ii) the nationals or residents of the State have filed at least 1,000 applications in one foreign country according to the most recent annual statistics published by the International Bureau,

(iii) the national Office of the State has received at least 10,000 applications from nationals or residents of foreign countries according to the most recent annual statistics published by the International Bureau.

(b) For the purposes of this paragraph, the term "applications" does not include applications for utility models.

(2) Subject to the provisions of paragraph (3), any State which does not become party to this Treaty upon entry into force under paragraph (1) shall become bound by this Treaty three months after the date on which such State has deposited its instrument of ratification or accession.

(3) The provisions of Chapter II and the corresponding provisions of the Regulations annexed to this Treaty shall become applicable, however, only on the date on which three States each of which fulfill at least one of the three requirements specified in paragraph (1) have become party to this Treaty without declaring, as provided in Article 64(1), that they do not intend to be bound by the provisions of Chapter II. That date shall not, however, be prior to that of the initial entry into force under paragraph (1).

Article 64

Reservations

(1)(a) Any State may declare that it shall not be bound by the provisions of Chapter II.

(b) States making a declaration under subparagraph (a) shall not be bound by the provisions of Chapter II and the corresponding provisions of the Regulations.

(2)(a) Any State not having made a declaration under paragraph (1)(a) may declare that:

(i) it shall not be bound by the provisions of Article 39(1) with respect to the furnishing of a copy of the international application and a translation thereof (as prescribed),

(ii) the obligation to delay national processing, as provided for under Article 40, shall not prevent publication, by or through its national Office, of the international application or a translation thereof, it being understood, however, that it is not exempted from the limitations provided for in Articles 30 and 38.

(b) States making such a declaration shall be bound accordingly.

(3)(a) Any State may declare that, as far as it is concerned, international publication of international applications is not required.

(b) Where, at the expiration of 18 months from the priority date, the international application contains the designation only of such States as have made declarations under subparagraph (a), the international application shall not be published by virtue of Article 21(2).

(c) Where the provisions of subparagraph (b) apply, the international application shall nevertheless be published by the International Bureau:

(i) at the request of the applicant, as provided in the Regulations,

(ii) when a national application or a patent based on the international application is published by or on behalf of the national Office of any designated State having made a declaration under subparagraph (a), promptly after such publication but not before the expiration of 18 months from the priority date.

(4)(a) Any State whose national law provides for prior art effect of its patents as from a date before publication, but does not equate for prior art purposes the priority date claimed under the Paris Convention for the Protection of Industrial Property to the actual filing date in that State, may declare that the filing outside that State of an international application designating that State is not equated to an actual filing in that State for prior art purposes.

(b) Any State making a declaration under subparagraph (a) shall to that extent not be bound by the provisions of Article 11(3).

(c) Any State making a declaration under subparagraph (a) shall, at the same time, state in writing the date from which, and the conditions under which, the prior art effect of any international application designating that State becomes effective in that State. This statement may be modified at any time by notification addressed to the Director General.

(5) Each State may declare that it does not consider itself bound by Article 59. With regard to any dispute between any Contracting State having made such a declaration and any other Contracting State, the provisions of Article 59 shall not apply.

(6)(a) Any declaration made under this Article shall be made in writing. It may be made at the time of signing this Treaty, at the time of depositing the instrument of ratification or accession, or, except in the case referred to in paragraph (5), at any later time by notification addressed to the Director General. In the case of the said notification, the declaration shall take effect six months after the day on which the Director General has received the notification, and shall not affect international applications filed prior to the expiration of the said six-month period.

(b) Any declaration made under this Article may be withdrawn at any time by notification addressed to the Director General. Such withdrawal shall take effect three months after the day on which the Director General has received the notification and, in the case of the withdrawal of a declaration made under paragraph (3), shall not affect international applications filed prior to the expiration of the said three-month period.

(7) No reservations to this Treaty other than the reservations under paragraphs (1) to (5) are permitted.

Article 65

Gradual Application

(1) If the agreement with any International Searching or Preliminary Examining Authority provides, transitionally, for limits on the

number or kind of international applications that such Authority undertakes to process, the Assembly shall adopt the measures necessary for the gradual application of this Treaty and the Regulations in respect of given categories of international applications. This provision shall also apply to requests for an international-type search under Article 15(5).

(2) The Assembly shall fix the dates from which, subject to the provision of paragraph (1), international applications may be filed and demands for international preliminary examination may be submitted. Such dates shall not be later than six months after this Treaty has entered into force according to the provisions of Article 63(1), or after Chapter II has become applicable under Article 63(3), respectively.

Article 66

Denunciation

(1) Any Contracting State may denounce this Treaty by notification addressed to the Director General.

(2) Denunciation shall take effect six months after receipt of the said notification by the Director General. It shall not affect the effects of the international application in the denouncing State if the international application was filed, and, where the denouncing State has been elected, the election was made, prior to the expiration of the said six-month period.

Article 67

Signature and Languages

(1)(a) This Treaty shall be signed in a single original in the English and French languages, both texts being equally authentic.

(b) Official texts shall be established by the Director General, after consultation with the interested Governments, in the German, Japanese, Portuguese, Russian and Spanish languages, and such other languages as the Assembly may designate.

(2) This Treaty shall remain open for signature at Washington until December 31, 1970.

Article 68

Depositary Functions

(1) The original of this Treaty, when no longer open for signature, shall be deposited with the Director General.

(2) The Director General shall transmit two copies, certified by him, of this Treaty and the Regulations annexed hereto to the Governments of all States party to the Paris Convention for the Protection of Industrial Property and, on request, to the Government of any other State.

(3) The Director General shall register this Treaty with the Secretariat of the United Nations.

(4) The Director General shall transmit two copies, certified by him, of any amendment to this Treaty and the Regulations to the Governments of all Contracting States and, on request, to the Government of any other State.

Article 69

Notifications

The Director General shall notify the Governments of all States party to the Paris Convention for the Protection of Industrial Property of:

- (i) signatures under Article 62,
- (ii) deposits of instruments of ratification or accession under Article 62,
- (iii) the date of entry into force of this Treaty and the date from which Chapter II is applicable in accordance with Article 63(3),
- (iv) any declarations made under Article 64(1) to (5),
- (v) withdrawals of any declarations made under Article 64(6)(b),
- (vi) denunciations received under Article 66, and
- (vii) any declarations made under Article 31(4).

(b) If the applicant complies with the invitation within the time limit under paragraph (a), the notice shall be considered as if it had been received on the actual filing date, provided that the notice as submitted contained at least one election and permitted the international application to be identified; otherwise, the notice shall be considered as if it had been received on the date on which the International Bureau receives the correction.

(c) Subject to paragraph (d), if the applicant does not comply with the invitation within the time limit under paragraph (a), the notice shall be considered as if it had not been submitted.

(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.

Rule 61

Notification of the Demand and Elections

61.1 Notification to the International Bureau and the Applicant

(a) The International Preliminary Examining Authority shall indicate on the demand the date of receipt or, where applicable, the date referred to in Rule 60.1(b). The International Preliminary Examining Authority shall promptly send the demand to the International Bureau, and shall prepare and keep a copy in its files.

(b) The International Preliminary Examining Authority shall promptly inform the applicant in writing of the date of receipt of the demand. Where the demand has been considered under Rules 54.4(a), 55.2(d), 57.4(c), 58.2(c) or 60.1(c) as if it had not been submitted or where an election has been considered under Rule 60.1(d) as if it had not been made, the International Preliminary Examining Authority shall notify the applicant and the International Bureau accordingly.

(c) The International Bureau shall promptly notify the applicant of the receipt, and the date of receipt, of any notice effecting a later election. That date shall be the actual date of receipt by the International Bureau or, where applicable, the date referred to in Rule 56.1(f) or 60.2(b). Where the notice has been considered under Rule 60.2(c) as if it had not been submitted or where a later election has been considered under Rule 60.2(d) as if it had not been made, the International Bureau shall notify the applicant accordingly.

61.2 Notification to the Elected Offices

(a) The notification provided for in Article 31(7) shall be effected by the International Bureau.

(b) The notification shall indicate the number and filing date of the international application, the name of the applicant, the filing date of the application whose priority is claimed (where priority is claimed), the date of receipt by the International

Preliminary Examining Authority of the demand, and — in the case of a later election — the date of receipt of the notice effecting the later election. The latter date shall be the actual date of receipt by the International Bureau or, where applicable, the date referred to in Rule 56.1(f) or 60.2(b).

(c) The notification shall be sent to the elected Office together with the communication provided for in Article 20. Elections effected after such communication shall be notified promptly after they have been made.

(d) Where the applicant makes an express request to an elected Office under Article 40(2) before the communication provided for in Article 20 has taken place, the International Bureau shall, upon request of the applicant or the elected Office, promptly effect that communication to that Office.

61.3 *Information for the Applicant*

The International Bureau shall inform the applicant in writing of the notification referred to in Rule 61.2 and of the elected Offices notified under Article 31(7).

61.4 *Publication in the Gazette*

Where a demand has been filed prior to the expiration of the 19th month from the priority date, the International Bureau shall publish a notice of that fact in the Gazette promptly after the filing of the demand, but not before the international publication of the international application. The notice shall indicate all designated States bound by Chapter II which have not been elected.

Rule 62

Copy of Amendments Under Article 19 for the International Preliminary Examining Authority

62.1 *Amendments Made before the Demand is Filed*

Upon receipt of a demand from the International Preliminary Examining Authority, the International Bureau shall promptly transmit a copy of any amendments under Article 19 to that Authority, unless that Authority has indicated that it has already received such a copy.

62.2 *Amendments Made after the Demand is Filed*

(a) If, at the time of filing any amendments under Article 19, a demand has already been submitted, the applicant shall preferably, at the same time as he files the amendments with the International Bureau, also file a copy of such amendments with the International Preliminary Examining Authority. In any case, the International Bureau shall promptly transmit a copy of such amendments to that Authority.

(b) *[Deleted]*

Rule 63

Minimum Requirements for International Preliminary Examining Authorities

63.1 *Definition of Minimum Requirements*

The minimum requirements referred to in Article 32(3) shall be the following:

(i) the national Office or intergovernmental organization must have at least 100 full-time employees with sufficient technical qualifications to carry out examinations;

(ii) that Office or organization must have at its ready disposal at least the minimum documentation referred to in Rule 34, properly arranged for examination purposes;

(iii) that Office or organization must have a staff which is capable of examining in the required technical fields and which has the language facilities to understand at least those languages in which the minimum documentation referred to in Rule 34 is written or is translated.

Rule 64

Prior Art for International Preliminary Examination

64.1 *Prior Art*

(a) For the purposes of Article 33(2) and (3), everything made available to the public anywhere in the world by means of written disclosure (including drawings and other illustrations) shall be considered prior art provided that such making available occurred prior to the relevant date.

(b) For the purposes of paragraph (a), the relevant date will be:

(i) subject to item (ii), the international filing date of the international application under international preliminary examination;

(ii) where the international application under international preliminary examination validly claims the priority of an earlier application, the filing date of such earlier application.

64.2 *Non-Written Disclosures*

In cases where the making available to the public occurred by means of an oral disclosure, use, exhibition or other non-written means ("non-written disclosure") before the relevant date as defined in Rule 64.1(b) and the date of such non-written disclosure is indicated in a written disclosure which has been made available to the public on a date which is the same as, or later than, the relevant date, the non-written disclosure shall not be considered part of the prior art for the purposes of Article 33(2) and (3). Nevertheless, the international preliminary examination report shall call attention to such non-written disclosure in the manner provided for in Rule 70.9.

64.3 *Certain Published Documents*

In cases where any application or any patent which would constitute prior art for the purposes of Article 33(2) and (3) had it been published prior to the relevant date referred to in Rule 64.1 was published on a date which is the same as, or later than, the relevant date but was filed earlier than the relevant date or claimed the priority of an earlier application which had been filed prior to the relevant date, such published application or patent shall not be considered part of the prior art for the purposes of Article 33(2) and (3). Nevertheless, the international preliminary examination report shall call attention to such application or patent in the manner provided for in Rule 70.10.

Rule 65

Inventive Step or Non-Obviousness

65.1 *Approach to Prior Art*

For the purposes of Article 33(3), the international preliminary examination shall take into consideration the relation of any particular claim to the prior art as a whole. It shall take into consideration the claim's relation not only to individual documents or parts thereof taken separately but also its relation to combinations of such documents or parts of documents, where such combinations are obvious to a person skilled in the art.

65.2 *Relevant Date*

For the purposes of Article 33(3), the relevant date for the consideration of inventive step (non-obviousness) is the date prescribed in Rule 64.1.

Rule 66

Procedure before the International Preliminary Examining Authority

66.1 *Basis of the International Preliminary Examination*

(a) Subject to paragraphs (b) to (d), the international preliminary examination shall be based on the international application as filed.

(b) The applicant may submit amendments under Article 34 at the time of filing the demand or, subject to Rule 66.4^{bis}, until the international preliminary examination report is established.

(c) Any amendments under Article 19 made before the demand was filed shall be taken into account for the purposes of the international preliminary examination unless superseded, or considered as reversed, by an amendment under Article 34.

(d) Any amendments under Article 19 made after the demand was filed and any amendments under Article 34 submitted to the International Preliminary Examining Authority shall, subject to Rule 66.4^{bis}, be taken into account for the purposes of the international preliminary examination.

(e) Claims relating to inventions in respect of which no international search report has been established need not be the subject of international preliminary examination.

66.2 *First Written Opinion of the International Preliminary Examining Authority*

(a) If the International Preliminary Examining Authority

- (i) considers that any of the situations referred to in Article 34(4) exists,
- (ii) considers that the international preliminary examination report should be negative in respect of any of the claims because the invention claimed therein does not appear to be novel, does not appear to involve an inventive step (does not appear to be non-obvious), or does not appear to be industrially applicable,
- (iii) notices that there is some defect in the form or contents of the international application under the Treaty or these Regulations,
- (iv) considers that any amendment goes beyond the disclosure in the international application as filed,
- (v) wishes to accompany the international preliminary examination report by observations on the clarity of the claims, the description, and the drawings, or the question whether the claims are fully supported by the description,
- (vi) considers that a claim relates to an invention in respect of which no international search report has been established and has decided not to carry out the international preliminary examination in respect of that claim, or
- (vii) considers that a nucleotide and/or amino acid sequence listing is not available to it in such a form that a meaningful international preliminary examination can be carried out,

the said Authority shall notify the applicant accordingly in writing. Where the national law of the national Office acting as International Preliminary Examining Authority does not allow multiple dependent claims to be drafted in a manner different from that provided for in the second and third sentences of Rule 6.4(a), the International Preliminary Examining Authority may, in case of failure to use that manner of claiming, apply Article 34(4)(b). In such case, it shall notify the applicant accordingly in writing.

(b) The notification shall fully state the reasons for the opinion of the International Preliminary Examining Authority.

(c) The notification shall invite the applicant to submit a written reply together, where appropriate, with amendments.

(d) The notification shall fix a time limit for the reply. The time limit shall be reasonable under the circumstances. It shall normally be two months after the date of notification. In no case shall it be shorter than one month after the said date. It shall be at least two months after the said date where the international search report is transmitted at the same time as the notification. It shall not be more than three

months after the said date but may be extended if the applicant so requests before its expiration.

66.3 *Formal Response to the International Preliminary Examining Authority*

(a) The applicant may respond to the invitation referred to in Rule 66.2(c) of the International Preliminary Examining Authority by making amendments or — if he disagrees with the opinion of that Authority — by submitting arguments, as the case may be, or do both.

(b) Any response shall be submitted directly to the International Preliminary Examining Authority.

66.4 *Additional Opportunity for Submitting Amendments or Arguments*

(a) If the International Preliminary Examining Authority wishes to issue one or more additional written opinions, it may do so, and Rules 66.2 and 66.3 shall apply.

(b) On the request of the applicant, the International Preliminary Examining Authority may give him one or more additional opportunities to submit amendments or arguments.

66.4^{bis} *Consideration of Amendments and Arguments*

Amendments or arguments need not be taken into account by the International Preliminary Examining Authority for the purposes of a written opinion or the international preliminary examination report if they are received after that Authority has begun to draw up that opinion or report.

66.5 *Amendment*

Any change, other than the rectification of obvious errors, in the claims, the description, or the drawings, including cancellation of claims, omission of passages in the description, or omission of certain drawings, shall be considered an amendment.

66.6 *Informal Communications with the Applicant*

The International Preliminary Examining Authority may, at any time, communicate informally, over the telephone, in writing, or through personal interviews, with the applicant. The said Authority shall, at its discretion, decide whether it wishes to grant more than one personal interview if so requested by the applicant, or whether it wishes to reply to any informal written communication from the applicant.

66.7 *Priority Document*

(a) If the International Preliminary Examining Authority needs a copy of the application whose priority is claimed in the international application, the International Bureau shall, on request, promptly furnish such copy. If that copy is not furnished to the International Preliminary Examining Authority because the applicant failed to comply with the requirements of Rule 17.1, the international preliminary examination report may be established as if the priority had not been claimed.

(b) If the application whose priority is claimed in the international application is in a language other than the language or one of the languages of the International Preliminary Examining Authority, that Authority may invite the applicant to furnish a translation in the said language or one of the said languages within two months from the date of the invitation. If the translation is not furnished within that time limit, the international preliminary examination report may be established as if the priority had not been claimed.

66.8 *Form of Amendments*

(a) The applicant shall be required to submit a replacement sheet for every sheet of the international application which, on account of an amendment, differs from the sheet previously filed. The letter accompanying the replacement sheets shall draw attention to the differences between the replaced sheets and the replacement sheets. Where the amendment consists in the deletion of passages or in minor alterations or additions, it may be made on a copy of the relevant sheet of the international application, provided that the clarity and direct reproducibility of that sheet are not adversely affected. To the extent that any amendment results in the cancellation of an entire sheet, that amendment shall be communicated in a letter.

(b) *[Deleted]*

66.9 *Language of Amendments*

(a) Subject to paragraphs (b) and (c), if the international application has been filed in a language other than the language in which it is published, any amendment, as well as any letter referred to in Rule 66.8(a), shall be submitted in the language of publication.

(b) If the international preliminary examination is carried out, pursuant to Rule 55.2, on the basis of a translation of the international application, any amendment, as well as any letter referred to in paragraph (a), shall be submitted in the language of that translation.

(c) Subject to Rule 55.3, if an amendment or letter is not submitted in a language as required under paragraph (a) or (b), the International Preliminary Examining Authority shall, if practicable having regard to the time limit for establishing the international preliminary examination report, invite the applicant to furnish the amendment or letter in the required language within a time limit which shall be reasonable under the circumstances.

(d) If the applicant fails to comply, within the time limit under paragraph (c), with the invitation to furnish an amendment in the required language, the amendment shall not be taken into account for the purposes of the international preliminary examination. If the applicant fails to comply, within the time limit under paragraph (c), with the invitation to furnish a letter referred to in paragraph (a) in the required language, the amendment concerned need not be taken into account for the purposes of the international preliminary examination.

Rule 67

Subject Matter under Article 34(4)(a)(i)

67.1 *Definition*

No International Preliminary Examining Authority shall be required to carry out an international preliminary examination on an international application if, and to the extent to which, its subject matter is any of the following:

- (i) scientific and mathematical theories,
- (ii) plant or animal varieties or essentially biological processes for the production of plants and animals, other than microbiological processes and the products of such processes,
- (iii) schemes, rules or methods of doing business, performing purely mental acts or playing games,
- (iv) methods for treatment of the human or animal body by surgery or therapy, as well as diagnostic methods,
- (v) mere presentations of information,
- (vi) computer programs to the extent that the International Preliminary Examining Authority is not equipped to carry out an international preliminary examination concerning such programs.

Rule 68

Lack of Unity of Invention (International Preliminary Examination)

68.1 *No Invitation to Restrict or Pay*

Where the International Preliminary Examining Authority finds that the requirement of unity of invention is not complied with and chooses not to invite the applicant to restrict the claims or to pay additional fees, it shall proceed with the international preliminary examination, subject to Article 34(4)(b) and Rule 66.1(e), in respect of the entire international application, but shall indicate, in any written opinion and in the international preliminary examination report, that it considers that the requirement of unity of invention is not fulfilled and it shall specify the reasons therefor.

68.2 *Invitation to Restrict or Pay*

Where the International Preliminary Examining Authority finds that the requirement of unity of invention is not complied with and chooses to invite the applicant, at his option, to restrict the claims or to pay additional fees, it shall specify at least one possibility of restriction which, in the opinion of the International Preliminary Examining Authority, would be in compliance with the applicable requirement, and shall specify the amount of the additional fees and the reasons for which the international application is not considered as complying with the requirement of unity of

invention. It shall, at the same time, fix a time limit, with regard to the circumstances of the case, for complying with the invitation; such time limit shall not be shorter than one month, and it shall not be longer than two months, from the date of the invitation.

68.3 *Additional Fees*

(a) The amount of the additional fee due for international preliminary examination under Article 34(3)(a) shall be determined by the competent International Preliminary Examining Authority.

(b) The additional fee due for international preliminary examination under Article 34(3)(a) shall be payable direct to the International Preliminary Examining Authority.

(c) Any applicant may pay the additional fee under protest, that is, accompanied by a reasoned statement to the effect that the international application complies with the requirement of unity of invention or that the amount of the required additional fee is excessive. Such protest shall be examined by a three-member board or other special instance of the International Preliminary Examining Authority, or any competent higher authority, which, to the extent that it finds the protest justified, shall order the total or partial reimbursement to the applicant of the additional fee. On the request of the applicant, the text of both the protest and the decision thereon shall be notified to the elected Offices as an annex to the international preliminary examination report.

(d) The three-member board, special instance or competent higher authority, referred to in paragraph (c), shall not comprise any person who made the decision which is the subject of the protest.

(e) Where the applicant has, under paragraph (c), paid an additional fee under protest, the International Preliminary Examining Authority may, after a prior review of the justification for the invitation to pay an additional fee, require that the applicant pay a fee for the examination of the protest ("protest fee"). The protest fee shall be paid within one month from the date of the notification to the applicant of the result of the review. If the protest fee is not so paid, the protest shall be considered withdrawn. The protest fee shall be refunded to the applicant where the three-member board, special instance or higher authority referred to in paragraph (c) finds that the protest was entirely justified.

68.4 *Procedure in the Case of Insufficient Restriction of the Claims*

If the applicant restricts the claims but not sufficiently to comply with the requirement of unity of invention, the International Preliminary Examining Authority shall proceed as provided in Article 34(3)(c).

68.5 *Main Invention*

In case of doubt which invention is the main invention for the purposes of Article 34(3)(c), the invention first mentioned in the claims shall be considered the main invention.

Rule 69

Start of and Time Limit for International Preliminary Examination

69.1 *Start of International Preliminary Examination*

(a) Subject to paragraphs (b) to (e), the International Preliminary Examining Authority shall start the international preliminary examination when it is in possession both of the demand and of either the international search report or a notice of the declaration by the International Searching Authority under Article 17(2)(a) that no international search report will be established.

(b) If the competent International Preliminary Examining Authority is part of the same national Office or intergovernmental organization as the competent International Searching Authority, the international preliminary examination may, if the International Preliminary Examining Authority so wishes and subject to paragraph (d), start at the same time as the international search.

(c) Where the statement concerning amendments contains an indication that amendments under Article 19 are to be taken into account (Rule 53.9(a)(i)), the International Preliminary Examining Authority shall not start the international preliminary examination before it has received a copy of the amendments concerned.

(d) Where the statement concerning amendments contains an indication that the start of the international preliminary examination is to be postponed (Rule 53.9(b)), the International Preliminary Examining Authority shall not start the international preliminary examination before

- (i) it has received a copy of any amendments made under Article 19,
 - (ii) it has received a notice from the applicant that he does not wish to make amendments under Article 19, or
 - (iii) the expiration of 20 months from the priority date,
- whichever occurs first.

(e) Where the statement concerning amendments contains an indication that amendments under Article 34 are submitted with the demand (Rule 53.9(c)) but no such amendments are, in fact, submitted, the International Preliminary Examining Authority shall not start the international preliminary examination before it has received the amendments or before the time limit fixed in the invitation referred to in Rule 60.1(g) has expired, whichever occurs first.

69.2 *Time Limit for International Preliminary Examination*

The time limit for establishing the international preliminary examination report shall be:

- (i) 28 months from the priority date if the demand was filed prior to the expiration of 19 months from the priority date;
- (ii) nine months from the start of the international preliminary examination if the demand was filed after the expiration of 19 months from the priority date.

Rule 70

The International Preliminary Examination Report

70.1 *Definition*

For the purposes of this Rule, "report" shall mean international preliminary examination report.

70.2 *Basis of the Report*

(a) If the claims have been amended, the report shall issue on the claims as amended.

(b) If, pursuant to Rule 66.7(a) or (b), the report is established as if the priority had not been claimed, the report shall so indicate.

(c) If the International Preliminary Examining Authority considers that any amendment goes beyond the disclosure in the international application as filed, the report shall be established as if such amendment had not been made, and the report shall so indicate. It shall also indicate the reasons why it considers that the amendment goes beyond the said disclosure.

(d) Where claims relate to inventions in respect of which no international search report has been established and have therefore not been the subject of international preliminary examination, the international preliminary examination report shall so indicate.

70.3 *Identifications*

The report shall identify the International Preliminary Examining Authority which established it by indicating the name of such Authority, and the international application by indicating the international application number, the name of the applicant, and the international filing date.

70.4 *Dates*

The report shall indicate:

- (i) the date on which the demand was submitted, and
- (ii) the date of the report; that date shall be the date on which the report is completed.

70.5 *Classification*

(a) The report shall repeat the classification given under Rule 43.3 if the International Preliminary Examining Authority agrees with such classification.

(b) Otherwise, the International Preliminary Examining Authority shall indicate in the report the classification, at least according to the International Patent Classification, which it considers correct.

70.6 *Statement under Article 35(2)*

(a) The statement referred to in Article 35(2) shall consist of the words "YES" or "NO," or their equivalent in the language of the report, or some appropriate sign

provided for in the Administrative Instructions, and shall be accompanied by the citations, explanations and observations, if any, referred to in the last sentence of Article 35(2).

(b) If any of the three criteria referred to in Article 35(2) (that is, novelty, inventive step (non-obviousness), industrial applicability) is not satisfied, the statement shall be negative. If, in such a case, any of the criteria, taken separately, is satisfied, the report shall specify the criterion or criteria so satisfied.

70.7 *Citations under Article 35(2)*

(a) The report shall cite the documents considered to be relevant for supporting the statements made under Article 35(2).

(b) The provisions of Rule 43.5(b) and (e) shall apply also to the report.

70.8 *Explanations under Article 35(2)*

The Administrative Instructions shall contain guidelines for cases in which the explanations referred to in Article 35(2) should or should not be given and the form of such explanations. Such guidelines shall be based on the following principles:

(i) explanations shall be given whenever the statement in relation to any claim is negative;

(ii) explanations shall be given whenever the statement is positive unless the reason for citing any document is easy to imagine on the basis of consultation of the cited document;

(iii) generally, explanations shall be given if the case provided for in the last sentence of Rule 70.6(b) obtains.

70.9 *Non-Written Disclosures*

Any non-written disclosure referred to in the report by virtue of Rule 64.2 shall be mentioned by indicating its kind, the date on which the written disclosure referring to the non-written disclosure was made available to the public, and the date on which the non-written disclosure occurred in public.

70.10 *Certain Published Documents*

Any published application or any patent referred to in the report by virtue of Rule 64.3 shall be mentioned as such and shall be accompanied by an indication of its date of publication, of its filing date, and its claimed priority date (if any). In respect of the priority date of any such document, the report may indicate that, in the opinion of the International Preliminary Examining Authority, such date has not been validly claimed.

70.11 *Mention of Amendments*

If, before the International Preliminary Examining Authority, amendments have been made, this fact shall be indicated in the report. Where any amendment has resulted in the cancellation of an entire sheet, this fact shall also be specified in the report.

70.12 *Mention of Certain Defects and Other Matters*

If the International Preliminary Examining Authority considers that, at the time it prepares the report:

(i) the international application contains any of the defects referred to in Rule 66.2(a)(iii), it shall include this opinion and the reasons therefor in the report;

(ii) the international application calls for any of the observations referred to in Rule 66.2(a)(v), it may include this opinion in the report and, if it does, it shall also indicate in the report the reasons for such opinion;

(iii) any of the situations referred to in Article 34(4) exists, it shall state this opinion and the reasons therefor in the report;

(iv) a nucleotide and/or amino acid sequence listing is not available to it in such a form that a meaningful international preliminary examination can be carried out, it shall so state in the report.

70.13 *Remarks Concerning Unity of Invention*

If the applicant paid additional fees for the international preliminary examination, or if the international application or the international preliminary examination was restricted under Article 34(3), the report shall so indicate. Furthermore, where the international preliminary examination was carried out on restricted claims (Article 34(3)(a)), or on the main invention only (Article 34(3)(c)), the report shall indicate what parts of the international application were and what parts were not the subject of international preliminary examination. The report shall contain the indications provided for in Rule 68.1, where the International Preliminary Examining Authority chose not to invite the applicant to restrict the claims or to pay additional fees.

70.14 *Authorized Officer*

The report shall indicate the name of the officer of the International Preliminary Examining Authority responsible for that report.

70.15 *Form*

The physical requirements as to the form of the report shall be prescribed by the Administrative Instructions.

70.16 *Annexes of the Report*

Each replacement sheet under Rule 66.8(a) and each replacement sheet containing amendments under Article 19 shall, unless superseded by later replacement sheets, be annexed to the report. Amendments under Article 19 which have been considered as reversed by an amendment under Article 34 and letters under Rule 66.8(a) shall not be annexed.

70.17 *Languages of the Report and the Annexes*

(a) The report and any annex shall be in the language in which the international application to which they relate is published, or, if the international preliminary

examination is carried out, pursuant to Rule 55.2, on the basis of a translation of the international application, in the language of that translation.

(b) *[Deleted]*

Rule 71

Transmittal of the International Preliminary Examination Report

71.1 Recipients

The International Preliminary Examining Authority shall, on the same day, transmit one copy of the international preliminary examination report and its annexes, if any, to the International Bureau, and one copy to the applicant.

71.2 Copies of Cited Documents

(a) The request under Article 36(4) may be presented any time during seven years from the international filing date of the international application to which the report relates.

(b) The International Preliminary Examining Authority may require that the party (applicant or elected Office) presenting the request pay to it the cost of preparing and mailing the copies. The level of the cost of preparing copies shall be provided for in the agreements referred to in Article 32(2) between the International Preliminary Examining Authorities and the International Bureau.

(c) *[Deleted]*

(d) Any International Preliminary Examining Authority may perform the obligations referred to in paragraphs (a) and (b) through another agency responsible to it.

Rule 72

Translation of the International Preliminary Examination Report

72.1 Languages

(a) Any elected State may require that the international preliminary examination report, established in any language other than the official language, or one of the official languages, of its national Office, be translated into English.

(b) Any such requirement shall be notified to the International Bureau, which shall promptly publish it in the Gazette.

72.2 Copy of Translation for the Applicant

The International Bureau shall transmit a copy of the translation referred to in Rule 72.1(a) of the international preliminary examination report to the applicant at the same time as it communicates such translation to the interested elected Office or Offices.

72.3 Observations on the Translation

The applicant may make written observations on what, in his opinion, are errors of translation in the translation of the international preliminary examination report and shall send a copy of any such observations to each of the interested elected Offices and a copy to the International Bureau.

Rule 73

Communication of the International Preliminary Examination Report

73.1 Preparation of Copies

The International Bureau shall prepare the copies of the documents to be communicated under Article 36(3)(a).

73.2 Time Limit for Communication

The communication provided for in Article 36(3)(a) shall be effected as promptly as possible but not earlier than the communication under Article 20.

Rule 74

Translations of Annexes of the International Preliminary Examination Report and Transmittal Thereof

74.1 Contents of Translation and Time Limit for Transmittal Thereof

(a) Where the furnishing of a translation of the international application is required by the elected Office under Article 39(1), the applicant shall, within the time limit applicable under Article 39(1), transmit a translation of any replacement sheet referred to in Rule 70.16 which is annexed to the international preliminary examination report, unless such sheet is in the language of the required translation of the international application. The same time limit shall apply where the furnishing of a translation of the international application to the elected Office must, because of a declaration made under Article 64(2)(a)(i), be effected within the time limit applicable under Article 22.

(b) Where the furnishing under Article 39(1) of a translation of the international application is not required by the elected Office, that Office may require the applicant to furnish, within the time limit applicable under that Article, a translation into the language in which the international application was published of any replacement sheet referred to in Rule 70.16 which is annexed to the international preliminary examination report and is not in that language.

Rule 75

[Deleted]

Rule 76

Copy, Translation and Fee under Article 39(1); Translation of Priority Document

76.1, 76.2 and 76.3 *[Deleted]*

76.4 *Time Limit for Translation of Priority Document*

The applicant shall not be required to furnish to any elected Office a certified translation of the priority document before the expiration of the applicable time limit under Article 39.

76.5 *Application of Rules 22.1(g), 49 and 51^{bis}*

Rules 22.1(g), 49 and 51^{bis} shall apply, provided that:

(i) any reference in the said Rules to the designated Office or to the designated State shall be construed as a reference to the elected Office or to the elected State, respectively;

(ii) any reference in the said Rules to Article 22 or Article 24(2) shall be construed as a reference to Article 39(1) or Article 39(3), respectively;

(iii) the words "international applications filed" in Rule 49.1(c) shall be replaced by the words "a demand submitted;"

(iv) for the purposes of Article 39(1), where an international preliminary examination report has been established, a translation of any amendment under Article 19 shall only be required if that amendment is annexed to that report.

76.6 *Transitional Provision*

If, on July 12, 1991, Rule 76.5(iv) is not compatible with the national law applied by the elected Office in respect of claims amended under Article 19, Rule 76.5(iv) shall not apply in that respect to that elected Office for as long as it continues not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by December 31, 1991. The information received shall be promptly published by the International Bureau in the Gazette.

Rule 77

Faculty under Article 39(1)(b)

77.1 *Exercise of Faculty*

(a) Any Contracting State allowing a time limit expiring later than the time limit provided for in Article 39(1)(a) shall notify the International Bureau of the time limit so fixed.

(b) Any notification received by the International Bureau under paragraph (a) shall be promptly published by the International Bureau in the Gazette.

(c) Notifications concerning the shortening of the previously fixed time limit shall be effective in relation to demands submitted after the expiration of three months

computed from the date on which the notification was published by the International Bureau.

(d) Notifications concerning the lengthening of the previously fixed time limit shall become effective upon publication by the International Bureau in the Gazette in respect of demands pending at the time or submitted after the date of such publication, or, if the Contracting State effecting the notification fixes some later date, as from the latter date.

Rule 78

Amendment of the Claims, the Description, and the Drawings, before Elected Offices

78.1 *Time Limit Where Election Is Effected prior to Expiration of 19 Months from Priority Date*

(a) Where the election of any Contracting State is effected prior to the expiration of the 19th month from the priority date, the applicant shall, if he so wishes, exercise the right under Article 41 to amend the claims, the description and the drawings, before the elected Office concerned within one month from the fulfillment of the requirements under Article 39(1)(a), provided that, if the transmittal of the international preliminary examination report under Article 36(1) has not taken place by the expiration of the time limit applicable under Article 39, he shall exercise the said right not later than four months after such expiration date. In either case, the applicant may exercise the said right at any other time if so permitted by the national law of the said State.

(b) In any elected State in which the national law provides that examination starts only on special request, the national law may provide that the time limit within or the time at which the applicant may exercise the right under Article 41 shall, where the election of any Contracting State is effected prior to the expiration of the 19th month from the priority date, be the same as that provided by the national law for the filing of amendments in the case of the examination, on special request, of national applications, provided that such time limit shall not expire prior to, or such time shall not come before, the expiration of the time limit applicable under paragraph (a).

78.2 *Time Limit Where Election Is Effected after Expiration of 19 Months from Priority Date*

Where the election of any Contracting State has been effected after the expiration of the 19th month from the priority date and the applicant wishes to make amendments under Article 41, the time limit for making amendments under Article 28 shall apply.

78.3 *Utility Models*

The provisions of Rules 6.5 and 13.5 shall apply, *mutatis mutandis*, before elected Offices. If the election was made before the expiration of the 19th month from the

priority date, the reference to the time limit applicable under Article 22 is replaced by a reference to the time limit applicable under Article 39.

PART D

Rules Concerning Chapter III of the Treaty

Rule 79

Calendar

79.1 Expressing Dates

Applicants, national Offices, receiving Offices, International Searching and Preliminary Examining Authorities, and the International Bureau, shall, for the purposes of the Treaty and the Regulations, express any date in terms of the Christian era and the Gregorian calendar, or, if they use other eras and calendars, they shall also express any date in terms of the Christian era and the Gregorian calendar.

Rule 80

Computation of Time Limits

80.1 Periods Expressed in Years

When a period is expressed as one year or a certain number of years, computation shall start on the day following the day on which the relevant event occurred, and the period shall expire in the relevant subsequent year in the month having the same name and on the day having the same number as the month and the day on which the said event occurred, provided that if the relevant subsequent month has no day with the same number the period shall expire on the last day of that month.

80.2 Periods Expressed in Months

When a period is expressed as one month or a certain number of months, computation shall start on the day following the day on which the relevant event occurred, and the period shall expire in the relevant subsequent month on the day which has the same number as the day on which the said event occurred, provided that if the relevant subsequent month has no day with the same number the period shall expire on the last day of that month.

80.3 Periods Expressed in Days

When a period is expressed as a certain number of days, computation shall start on the day following the day on which the relevant event occurred, and the period shall expire on the day on which the last day of the count has been reached.

80.4 *Local Dates*

(a) The date which is taken into consideration as the starting date of the computation of any period shall be the date which prevails in the locality at the time when the relevant event occurred.

(b) The date on which any period expires shall be the date which prevails in the locality in which the required document must be filed or the required fee must be paid.

80.5 *Expiration on a Non-Working Day*

If the expiration of any period during which any document or fee must reach a national Office or intergovernmental organization falls on a day on which such Office or organization is not open to the public for the purposes of the transaction of official business, or on which ordinary mail is not delivered in the locality in which such Office or organization is situated, the period shall expire on the next subsequent day on which neither of the said two circumstances exists.

80.6 *Date of Documents*

(a) Where a period starts on the day of the date of a document or letter emanating from a national Office or intergovernmental organization, any interested party may prove that the said document or letter was mailed on a day later than the date it bears, in which case the date of actual mailing shall, for the purposes of computing the period, be considered to be the date on which the period starts. Irrespective of the date on which such a document or letter was mailed, if the applicant offers to the national Office or intergovernmental organization evidence which satisfies the national Office or intergovernmental organization that the document or letter was received more than seven days after the date it bears, the national Office or intergovernmental organization shall treat the period starting from the date of the document or letter as expiring later by an additional number of days which is equal to the number of days which the document or letter was received later than seven days after the date it bears.

(b) *[Deleted]*

80.7 *End of Working Day*

(a) A period expiring on a given day shall expire at the moment the national Office or intergovernmental organization with which the document must be filed or to which the fee must be paid closes for business on that day.

(b) Any Office or organization may depart from the provisions of paragraph (a) up to midnight on the relevant day.

Rule 81

Modification of Time Limits Fixed in the Treaty

81.1 Proposal

(a) Any Contracting State or the Director General may propose a modification under Article 47(2).

(b) Proposals made by a Contracting State shall be presented to the Director General.

81.2 Decision by the Assembly

(a) When the proposal is made to the Assembly, its text shall be sent by the Director General to all Contracting States at least two months in advance of that session of the Assembly whose agenda includes the proposal.

(b) During the discussion of the proposal in the Assembly, the proposal may be amended or consequential amendments proposed.

(c) The proposal shall be considered adopted if none of the Contracting States present at the time of voting votes against the proposal.

81.3 Voting by Correspondence

(a) When voting by correspondence is chosen, the proposal shall be included in a written communication from the Director General to the Contracting States, inviting them to express their vote in writing.

(b) The invitation shall fix the time limit within which the reply containing the vote expressed in writing must reach the International Bureau. That time limit shall not be less than three months from the date of the invitation.

(c) Replies must be either positive or negative. Proposals for amendments or mere observations shall not be regarded as votes.

(d) The proposal shall be considered adopted if none of the Contracting States opposes the amendment and if at least one-half of the Contracting States express either approval or indifference or abstention.

Rule 82

Irregularities in the Mail Service

82.1 Delay or Loss in Mail

(a) Any interested party may offer evidence that he has mailed the document or letter five days prior to the expiration of the time limit. Except in cases where surface mail normally arrives at its destination within two days of mailing, or where no air-mail service is available, such evidence may be offered only if the mailing was by air-mail. In any case, evidence may be offered only if the mailing was by mail registered by the postal authorities.

(b) If the mailing, in accordance with paragraph (a), of a document or letter is proven to the satisfaction of the national Office or intergovernmental organization which is the addressee, delay in arrival shall be excused, or, if the document or letter is lost in the mail, substitution for it of a new copy shall be permitted, provided that the interested party proves to the satisfaction of the said Office or organization that the document or letter offered in substitution is identical with the document or letter lost.

(c) In the cases provided for in paragraph (b), evidence of mailing within the prescribed time limit, and, where the document or letter was lost, the substitute document or letter as well as the evidence concerning its identity with the document or letter lost shall be submitted within one month after the date on which the interested party noticed — or with due diligence should have noticed — the delay or the loss, and in no case later than six months after the expiration of the time limit applicable in the given case.

(d) Any national Office or intergovernmental organization which has notified the International Bureau that it will do so shall, where a delivery service other than the postal authorities is used to mail a document or letter, apply the provisions of paragraphs (a) to (c) as if the delivery service was a postal authority. In such a case, the last sentence of paragraph (a) shall not apply but evidence may be offered only if details of the mailing were recorded by the delivery service at the time of mailing. The notification may contain an indication that it applies only to mailings using specified delivery services or delivery services which satisfy specified criteria. The International Bureau shall publish the information so notified in the Gazette.

(e) Any national Office or intergovernmental organization may proceed under paragraph (d):

(i) even if, where applicable, the delivery service used was not one of those specified, or did not satisfy the criteria specified, in the relevant notification under paragraph (d), or

(ii) even if that Office or organization has not sent to the International Bureau a notification under paragraph (d).

82.2 *Interruption in the Mail Service*

(a) Any interested party may offer evidence that on any of the 10 days preceding the day of expiration of the time limit the postal service was interrupted on account of war, revolution, civil disorder, strike, natural calamity, or other like reason, in the locality where the interested party resides or has his place of business or is staying.

(b) If such circumstances are proven to the satisfaction of the national Office or intergovernmental organization which is the addressee, delay in arrival shall be excused, provided that the interested party proves to the satisfaction of the said Office or organization that he effected the mailing within five days after the mail service was resumed. The provisions of Rule 82.1(c) shall apply *mutatis mutandis*.

Rule 82^{bis}

Excuse by the Designated or Elected State of Delays in Meeting Certain Time Limits

82^{bis}.1 *Meaning of "Time Limit" in Article 48(2)*

The reference to "any time limit" in Article 48(2) shall be construed as comprising a reference:

- (i) to any time limit fixed in the Treaty or these Regulations;
- (ii) to any time limit fixed by the receiving Office, the International Searching Authority, the International Preliminary Examining Authority or the International Bureau or applicable by the receiving Office under its national law;
- (iii) to any time limit fixed by, or in the national law applicable by, the designated or elected Office, for the performance of any act by the applicant before that Office.

82^{bis}.2 *Reinstatement of Rights and Other Provisions to Which Article 48(2) Applies*

The provisions of the national law which is referred to in Article 48(2) concerning the excusing, by the designated or elected State, of any delay in meeting any time limit are those provisions which provide for reinstatement of rights, restoration, *restitutio in integrum* or further processing in spite of non-compliance with a time limit, and any other provision providing for the extension of time limits or for excusing delays in meeting time limits.

Rule 82^{ter}

Rectification of Errors Made by the Receiving Office or by the International Bureau

82^{ter}.1 *Errors Concerning the International Filing Date and the Priority Claim*

If the applicant proves to the satisfaction of any designated or elected Office that the international filing date is incorrect due to an error made by the receiving Office or that the declaration made under Article 8(1) has been erroneously cancelled or corrected by the receiving Office or the International Bureau, and if the error is an error such that, had it been made by the designated or elected Office itself, that Office would rectify it under the national law or national practice, the said Office shall rectify the error and shall treat the international application as if it had been accorded the rectified international filing date or as if the declaration under Article 8(1) had not been cancelled or corrected, as the case may be.

Rule 83

Right to Practice before International Authorities

83.1 Proof of Right

The International Bureau, the competent International Searching Authority, and the competent International Preliminary Examining Authority, may require the production of proof of the right to practice referred to in Article 49.

83.2 Information

(a) The national Office or the intergovernmental organization which the interested person is alleged to have a right to practice before shall, upon request, inform the International Bureau, the competent International Searching Authority, or the competent International Preliminary Examining Authority, whether such person has the right to practice before it.

(b) Such information shall be binding upon the International Bureau, the International Searching Authority, or the International Preliminary Examining Authority, as the case may be.

PART E

Rules Concerning Chapter V of the Treaty

Rule 84

Expenses of Delegations

84.1 Expenses Borne by Governments

The expenses of each Delegation participating in any organ established by or under the Treaty shall be borne by the Government which has appointed it.

Rule 85

Absence of Quorum in the Assembly

85.1 Voting by Correspondence

In the case provided for in Article 53(5)(b), the International Bureau shall communicate the decisions of the Assembly (other than those concerning the Assembly's own procedure) to the Contracting States which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of that period, the number of Contracting States having thus expressed their vote or abstention attains the number of Contracting States which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

Rule 86

The Gazette

86.1 *Contents*

The Gazette referred to in Article 55(4) shall contain:

(i) for each published international application, data specified by the Administrative Instructions taken from the front page of the pamphlet published under Rule 48, the drawing (if any) appearing on the said front page, and the abstract,

(ii) the schedule of all fees payable to the receiving Offices, the International Bureau, and the International Searching and Preliminary Examining Authorities,

(iii) notices the publication of which is required under the Treaty or these Regulations,

(iv) information, if and to the extent furnished to the International Bureau by the designated or elected Offices, on the question whether the requirements provided for in Articles 22 or 39 have been complied with in respect of the international applications designating or electing the Office concerned,

(v) any other useful information prescribed by the Administrative Instructions, provided access to such information is not prohibited under the Treaty or these Regulations.

86.2 *Languages*

(a) The Gazette shall be published in an English-language edition and a French-language edition. It shall also be published in editions in any other language, provided the cost of publication is assured through sales or subventions.

(b) The Assembly may order the publication of the Gazette in languages other than those referred to in paragraph (a).

86.3 *Frequency*

The frequency of publication of the Gazette shall be determined by the Director General.

86.4 *Sale*

The subscription and other sale prices of the Gazette shall be determined by the Director General.

86.5 *Title*

The title of the Gazette shall be determined by the Director General.

86.6 *Further Details*

Further details concerning the Gazette may be provided for in the Administrative Instructions.

Rule 87

Copies of Publications

87.1 *International Searching and Preliminary Examining Authorities*

Any International Searching or Preliminary Examining Authority shall have the right to receive, free of charge, two copies of every published international application, of the Gazette, and of any other publication of general interest published by the International Bureau in connection with the Treaty or these Regulations.

87.2 *National Offices*

(a) Any national Office shall have the right to receive, free of charge, one copy of every published international application, of the Gazette, and of any other publication of general interest published by the International Bureau in connection with the Treaty or these Regulations.

(b) The publications referred to in paragraph (a) shall be sent on special request. If any publication is available in more than one language, the request shall specify the language or languages in which it is desired.

Rule 88

Amendment of the Regulations

88.1 *Requirement of Unanimity*

Amendment of the following provisions of these Regulations shall require that no State having the right to vote in the Assembly vote against the proposed amendment:

- (i) Rule 14.1 (Transmittal Fee),
- (ii) *[Deleted]*
- (iii) Rule 22.3 (Time Limit under Article 12(3)),
- (iv) Rule 33 (Relevant Prior Art for International Search),
- (v) Rule 64 (Prior Art for International Preliminary Examination),
- (vi) Rule 81 (Modification of Time Limits Fixed in the Treaty),
- (vii) the present paragraph (i.e., Rule 88.1).

88.2 *[Deleted]*

88.3 *Requirement of Absence of Opposition by Certain States*

Amendment of the following provisions of these Regulations shall require that no State referred to in Article 58(3)(a)(ii) and having the right to vote in the Assembly vote against the proposed amendment:

- (i) Rule 34 (Minimum Documentation),
- (ii) Rule 39 (Subject Matter under Article 17(2)(a)(i)),
- (iii) Rule 67 (Subject Matter under Article 34(4)(a)(i)),
- (iv) the present paragraph (i.e., Rule 88.3).

88.4 *Procedure*

Any proposal for amending a provision referred to in Rules 88.1 or 88.3 shall, if the proposal is to be decided upon in the Assembly, be communicated to all Contracting States at least two months prior to the opening of that session of the Assembly which is called upon to make a decision on the proposal.

Rule 89

Administrative Instructions

89.1 *Scope*

(a) The Administrative Instructions shall contain provisions:

(i) concerning matters in respect of which these Regulations expressly refer to such Instructions,

(ii) concerning any details in respect of the application of these Regulations.

(b) The Administrative Instructions shall not be in conflict with the provisions of the Treaty, these Regulations, or any agreement concluded by the International Bureau with an International Searching Authority, or an International Preliminary Examining Authority.

89.2 *Source*

(a) The Administrative Instructions shall be drawn up and promulgated by the Director General after consultation with the receiving Offices and the International Searching and Preliminary Examining Authorities.

(b) They may be modified by the Director General after consultation with the Offices or Authorities which have a direct interest in the proposed modification.

(c) The Assembly may invite the Director General to modify the Administrative Instructions, and the Director General shall proceed accordingly.

89.3 *Publication and Entry into Force*

(a) The Administrative Instructions and any modification thereof shall be published in the Gazette.

(b) Each publication shall specify the date on which the published provisions come into effect. The dates may be different for different provisions, provided that no provision may be declared effective prior to its publication in the Gazette.

PART F

Rules Concerning Several Chapters of the Treaty

Rule 90

Agents and Common Representatives

90.1 *Appointment as Agent*

(a) A person having the right to practice before the national Office with which the international application is filed may be appointed by the applicant as his agent to represent him before that Office acting as the receiving Office and before the International Bureau, the International Searching Authority and the International Preliminary Examining Authority.

(b) A person having the right to practice before the national Office or intergovernmental organization which acts as the International Searching Authority may be appointed by the applicant as his agent to represent him specifically before that Authority.

(c) A person having the right to practice before the national Office or intergovernmental organization which acts as the International Preliminary Examining Authority may be appointed by the applicant as his agent to represent him specifically before that Authority.

(d) An agent appointed under paragraph (a) may, unless otherwise indicated in the document appointing him, appoint one or more sub-agents to represent the applicant as the applicant's agent:

(i) before the receiving Office, the International Bureau, the International Searching Authority and the International Preliminary Examining Authority, provided that any person so appointed as sub-agent has the right to practice before the national Office with which the international application was filed;

(ii) specifically before the International Searching Authority or the International Preliminary Examining Authority, provided that any person so appointed as sub-agent has the right to practice before the national Office or intergovernmental organization which acts as the International Searching Authority or International Preliminary Examining Authority, as the case may be.

90.2 *Common Representative*

(a) Where there are two or more applicants and the applicants have not appointed an agent representing all of them (a "common agent") under Rule 90.1(a), one of the applicants who is entitled to file an international application according to Article 9 may be appointed by the other applicants as their common representative.

(b) Where there are two or more applicants and all the applicants have not appointed a common agent under Rule 90.1(a) or a common representative under paragraph (a), the applicant first named in the request who is entitled according to

Rule 19.1 to file an international application with the receiving Office shall be considered to be the common representative of all the applicants.

90.3 *Effects of Acts by or in Relation to Agents and Common Representatives*

(a) Any act by or in relation to an agent shall have the effect of an act by or in relation to the applicant or applicants concerned.

(b) If there are two or more agents representing the same applicant or applicants, any act by or in relation to any of those agents shall have the effect of an act by or in relation to the said applicant or applicants.

(c) Subject to Rule 90^{bis}.5(a), second sentence, any act by or in relation to a common representative or his agent shall have the effect of an act by or in relation to all the applicants.

90.4 *Manner of Appointment of Agent or Common Representative*

(a) The appointment of an agent shall be effected 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.

(b) Subject to Rule 90.5, a separate power of attorney shall be submitted to either the receiving Office or the International Bureau, provided that, where a power of attorney appoints an agent under Rule 90.1(b), (c) or (d)(ii), it shall be submitted to the International Searching Authority or the International Preliminary Examining Authority, as the case may be.

(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.

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) the general power of attorney has been deposited in accordance with paragraph (b), and

(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.

(b) The general power of attorney shall be deposited with the receiving Office, provided that, where it appoints an agent under Rule 90.1(b), (c) or (d)(ii), it shall be deposited with the International Searching Authority or the International Preliminary Examining Authority, as the case may be.

90.6 *Revocation and Renunciation*

(a) Any appointment of an agent or common representative may be revoked by the persons who made the appointment or by their successors in title, in which case any appointment of a sub-agent under Rule 90.1(d) by that agent shall also be considered as revoked. Any appointment of a sub-agent under Rule 90.1(d) may also be revoked by the applicant concerned.

(b) The appointment of an agent under Rule 90.1(a) shall, unless otherwise indicated, have the effect of revoking any earlier appointment of an agent made under that Rule.

(c) The appointment of a common representative shall, unless otherwise indicated, have the effect of revoking any earlier appointment of a common representative.

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

(e) Rule 90.4(b) and (c) shall apply, *mutatis mutandis*, to a document containing a revocation or renunciation under this Rule.

Rule 90^{bis}

Withdrawals

90^{bis}.1 *Withdrawal of the International Application*

(a) The applicant may withdraw the international application at any time prior to the expiration of 20 months from the priority date or, where Article 39(1) applies, prior to the expiration of 30 months from the priority date.

(b) Withdrawal shall be effective on receipt of a notice addressed by the applicant, at his option, to the International Bureau, to the receiving Office or, where Article 39(1) applies, to the International Preliminary Examining Authority.

(c) No international publication of the international application shall be effected if the notice of withdrawal sent by the applicant or transmitted by the receiving Office or the International Preliminary Examining Authority reaches the International Bureau before the technical preparations for international publication have been completed.

90^{bis}.2 *Withdrawal of Designations*

(a) The applicant may withdraw the designation of any designated State at any time prior to the expiration of 20 months from the priority date or, where Article 39(1) applies in respect of that State, prior to the expiration of 30 months from the priority date. Withdrawal of the designation of a State which has been elected shall entail withdrawal of the corresponding election under Rule 90^{bis}.4.

(b) Where a State has been designated for the purpose of obtaining both a national patent and a regional patent, withdrawal of the designation of that State shall be taken to mean withdrawal of only the designation for the purpose of obtaining a national patent, except where otherwise indicated.

(c) Withdrawal of the designations of all designated States shall be treated as withdrawal of the international application under Rule 90^{bis}.1.

(d) Withdrawal shall be effective on receipt of a notice addressed by the applicant, at his option, to the International Bureau, to the receiving Office or, where Article 39(1) applies, to the International Preliminary Examining Authority.

(e) No international publication of the designation shall be effected if the notice of withdrawal sent by the applicant or transmitted by the receiving Office or the International Preliminary Examining Authority reaches the International Bureau before the technical preparations for international publication have been completed.

90^{bis}.3 *Withdrawal of Priority Claims*

(a) The applicant may withdraw a priority claim, made in the international application under Article 8(1), at any time prior to the expiration of 20 months from the priority date or, where Article 39(1) applies, 30 months from the priority date.

(b) Where the international application contains more than one priority claim, the applicant may exercise the right provided for in paragraph (a) in respect of one or more or all of the priority claims.

(c) Withdrawal shall be effective on receipt of a notice addressed by the applicant, at his option, to the International Bureau, to the receiving Office or, where Article 39(1) applies, to the International Preliminary Examining Authority.

(d) Where the withdrawal of a priority claim causes a change in the priority date, any time limit which is computed from the original priority date and which has not already expired shall, subject to paragraph (e), be computed from the priority date resulting from that change.

(e) In the case of the time limit referred to in Article 21(2)(a), the International Bureau may nevertheless proceed with the international publication on the basis of the said time limit as computed from the original priority date if the notice of withdrawal sent by the applicant or transmitted by the receiving Office or the International Preliminary Examining Authority reaches the International Bureau after the completion of the technical preparations for international publication.

90^{bis}.4 *Withdrawal of the Demand, or of Elections*

(a) The applicant may withdraw the demand or any or all elections at any time prior to the expiration of 30 months from the priority date.

(b) Withdrawal shall be effective upon receipt of a notice addressed by the applicant to the International Bureau.

(c) If the notice of withdrawal is submitted by the applicant to the International Preliminary Examining Authority, that Authority shall mark the date of receipt on the notice and transmit it promptly to the International Bureau. The notice shall be considered to have been submitted to the International Bureau on the date marked.

90^{bis}.5 *Signature*

(a) Any notice of withdrawal referred to in Rules 90^{bis}.1 to 90^{bis}.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 90^{bis}.1 to 90^{bis}.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

(ii) in the case of a notice of withdrawal referred to in Rule 90^{bis}.1(b), 90^{bis}.2(d) or 90^{bis}.3(c), 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 90^{bis}.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.

90^{bis}.6 *Effect of Withdrawal*

(a) Withdrawal under Rule 90^{bis} of the international application, any designation, any priority claim, the demand or any election shall have no effect in any designated or elected Office where the processing or examination of the international application has already started under Article 23(2) or Article 40(2).

(b) Where the international application is withdrawn under Rule 90^{bis}.1, the international processing of the international application shall be discontinued.

(c) Where the demand or all elections are withdrawn under Rule 90^{bis}.4, the processing of the international application by the International Preliminary Examining Authority shall be discontinued.

90^{bis}.7 *Faculty under Article 37(4)(b)*

(a) Any Contracting State whose national law provides for what is described in the second part of Article 37(4)(b) shall notify the International Bureau in writing.

(b) The notification referred to in paragraph (a) shall be promptly published by the International Bureau in the Gazette, and shall have effect in respect of international applications filed more than one month after the date of such publication.

Rule 91

Obvious Errors in Documents

91.1 Rectification

(a) Subject to paragraphs (b) to (g^{quater}), obvious errors in the international application or other papers submitted by the applicant may be rectified.

(b) Errors which are due to the fact that something other than what was obviously intended was written in the international application or other paper shall be regarded as obvious errors. The rectification itself shall be obvious in the sense that anyone would immediately realize that nothing else could have been intended than what is offered as rectification.

(c) Omissions of entire elements or sheets of the international application, even if clearly resulting from inattention, at the stage, for example, of copying or assembling sheets, shall not be rectifiable.

(d) Rectification may be made on the request of the applicant. The authority having discovered what appears to be an obvious error may invite the applicant to present a request for rectification as provided in paragraphs (e) to (g^{quater}). Rule 26.4(a) shall apply *mutatis mutandis* to the manner in which rectifications shall be requested.

(e) No rectification shall be made except with the express authorization:

(i) of the receiving Office if the error is in the request,

(ii) of the International Searching Authority if the error is in any part of the international application other than the request or in any paper submitted to that Authority,

(iii) of the International Preliminary Examining Authority if the error is in any part of the international application other than the request or in any paper submitted to that Authority, and

(iv) of the International Bureau if the error is in any paper, other than the international application or amendments or corrections to that application, submitted to the International Bureau.

(f) Any authority which authorizes or refuses any rectification shall promptly notify the applicant of the authorization or refusal and, in the case of refusal, of the reasons therefor. The authority which authorizes a rectification shall promptly notify the International Bureau accordingly. Where the authorization of the rectification was refused, the International Bureau shall, upon request made by the applicant prior to the time relevant under paragraph (g^{bis}), (g^{ter}) or (g^{quater}) and subject to the payment of a special fee whose amount shall be fixed in the Administrative Instructions, publish the request for rectification together with the international application. A copy of the request for rectification shall be included in the communication under Article 20 where a copy of the pamphlet is not used for that communication or where the international application is not published by virtue of Article 64(3).

(g) The authorization for rectification referred to in paragraph (e) shall, subject to paragraphs (g^{bis}), (g^{ter}) and (g^{quater}), be effective:

(i) where it is given by the receiving Office or by the International Searching Authority, if its notification to the International Bureau reaches that Bureau before the expiration of 17 months from the priority date;

(ii) where it is given by the International Preliminary Examining Authority, if it is given before the establishment of the international preliminary examination report;

(iii) where it is given by the International Bureau, if it is given before the expiration of 17 months from the priority date.

(g^{bis}) If the notification made under paragraph (g)(i) reaches the International Bureau, or if the rectification made under paragraph (g)(iii) is authorized by the International Bureau, after the expiration of 17 months from the priority date but before the technical preparations for international publication have been completed, the authorization shall be effective and the rectification shall be incorporated in the said publication.

(g^{ter}) Where the applicant has asked the International Bureau to publish his international application before the expiration of 18 months from the priority date, any notification made under paragraph (g)(i) must reach, and any rectification made under paragraph (g)(iii) must be authorized by, the International Bureau, in order for the authorization to be effective, not later than at the time of the completion of the technical preparations for international publication.

(g^{quater}) Where the international application is not published by virtue of Article 64(3), any notification made under paragraph (g)(i) must reach, and any rectification made under paragraph (g)(iii) must be authorized by, the International Bureau, in order for the authorization to be effective, not later than at the time of the communication of the international application under Article 20.

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) 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.

92.2 *Languages*

(a) Subject to Rules 55.1 and 66.9 and to paragraph (b) of this Rule, any letter or document submitted by the applicant to the International Searching Authority or the International Preliminary Examining Authority shall be in the same language as the international application to which it relates. However, where a translation of the international application has been transmitted under Rule 12.1(c) or furnished under Rule 55.2(a) or (c), the language of such translation shall be used.

(b) Any letter from the applicant to the International Searching Authority or the International Preliminary Examining Authority may be in a language other than that of the international application, provided the said Authority authorizes the use of such language.

(c) *[Deleted]*

(d) Any letter from the applicant to the International Bureau shall be in English or French.

(e) Any letter or notification from the International Bureau to the applicant or to any national Office shall be in English or French.

92.3 *Mailings by National Offices and Intergovernmental Organizations*

Any document or letter emanating from or transmitted by a national Office or an intergovernmental organization and constituting an event from the date of which any time limit under the Treaty or these Regulations commences to run shall be sent by air mail, provided that surface mail may be used instead of air mail in cases where surface mail normally arrives at its destination within two days from mailing or where air mail service is not available.

92.4 *Use of Telegraph, Teleprinter, Facsimile Machine, Etc.*

(a) A document making up the international application, and any later document or correspondence relating thereto, may, notwithstanding the provisions of Rules 11.14 and 92.1(a), but subject to paragraph (h), be transmitted, to the extent feasible, by telegraph, teleprinter, facsimile machine or other like means of communication producing a printed or written document.

(b) A signature appearing on a document transmitted by facsimile machine shall be recognized for the purposes of the Treaty and these Regulations as a proper signature.

(c) Where the applicant has attempted to transmit a document by any of the means referred to in paragraph (a) but part or all of the received document is illegible or part of the document is not received, the document shall be treated as not having been received to the extent that the received document is illegible or that the attempted transmission failed. The national Office or intergovernmental organization shall promptly notify the applicant accordingly.

(d) Any national Office or intergovernmental organization may require that the original of any document transmitted by any of the means referred to in paragraph (a) and an accompanying letter identifying that earlier transmission be furnished within 14 days from the date of the transmission, provided that such requirement has been notified to the International Bureau and the International Bureau has published information thereon in the Gazette. The notification shall specify whether such requirement concerns all or only certain kinds of documents.

(e) Where the applicant fails to furnish the original of a document as required under paragraph (d), the national Office or intergovernmental organization concerned may, depending on the kind of document transmitted and having regard to Rules 11 and 26.3,

- (i) waive the requirement under paragraph (d), or
- (ii) invite the applicant to furnish, within a time limit which shall be reasonable under the circumstances and shall be fixed in the invitation, the original of the document transmitted,

provided that, where the document transmitted contains defects, or shows that the original contains defects, in respect of which the national Office or intergovernmental organization may issue an invitation to correct, that Office or organization may issue such an invitation in addition to, or instead of, proceeding under item (i) or (ii).

(f) Where the furnishing of the original of a document is not required under paragraph (d) but the national Office or intergovernmental organization considers it necessary to receive the original of the said document, it may issue an invitation as provided for under paragraph (e)(ii).

(g) If the applicant fails to comply with an invitation under paragraph (e)(ii) or (f):

- (i) where the document concerned is the international application, the latter shall be considered withdrawn and the receiving Office shall so declare;
- (ii) where the document concerned is a document subsequent to the international application, the document shall be considered as not having been submitted.

(h) No national Office or intergovernmental organization shall be obliged to receive any document submitted by a means referred to in paragraph (a) unless it has notified the International Bureau that it is prepared to receive such a document by that means and the International Bureau has published information thereon in the Gazette.

Rule 92^{bis}

Recording of Changes in Certain Indications in the Request or the Demand

92^{bis}.1 Recording of Changes by the International Bureau

(a) The International Bureau shall, on the request of the applicant or the receiving Office, record changes in the following indications appearing in the request or demand:

- (i) person, name, residence, nationality or address of the applicant,
- (ii) person, name or address of the agent, the common representative or the inventor.

(b) The International Bureau shall not record the requested change if the request for recording is received by it after the expiration:

- (i) of the time limit referred to in Article 22(1), where Article 39(1) is not applicable with respect to any Contracting State;
- (ii) of the time limit referred to in Article 39(1)(a), where Article 39(1) is applicable with respect to at least one Contracting State.

Rule 93

Keeping of Records and Files

93.1 The Receiving Office

Each receiving Office shall keep the records relating to each international application or purported international application, including the home copy, for at least 10 years from the international filing date or, where no international filing date is accorded, from the date of receipt.

93.2 The International Bureau

(a) The International Bureau shall keep the file, including the record copy, of any international application for at least 30 years from the date of receipt of the record copy.

(b) The basic records of the International Bureau shall be kept indefinitely.

93.3 The International Searching and Preliminary Examining Authorities

Each International Searching Authority and each International Preliminary Examining Authority shall keep the file of each international application it receives for at least 10 years from the international filing date.

93.4 Reproductions

For the purposes of this Rule, records, copies and files shall also mean photographic reproductions of records, copies, and files, whatever may be the form of such reproductions (microfilms or other).

Rule 94

Furnishing of Copies by the International Bureau and the International Preliminary Examining Authority

94.1 Obligation To Furnish

At the request of the applicant or any person authorized by the applicant, the International Bureau and the International Preliminary Examining Authority shall furnish, subject to reimbursement of the cost of the service, copies of any document contained in the file of the applicant's international application or purported international application.

Rule 95

Availability of Translations

95.1 Furnishing of Copies of Translations

(a) At the request of the International Bureau, any designated or elected Office shall provide it with a copy of the translation of the international application furnished by the applicant to that Office.

(b) The International Bureau may, upon request and subject to reimbursement of the cost, furnish to any person copies of the translations received under paragraph (a).

Rule 96

The Schedule of Fees

96.1 Schedule of Fees Annexed to Regulations

The amounts of the fees referred to in Rules 15 and 57 shall be expressed in Swiss currency. They shall be specified in the Schedule of Fees which is annexed to these Regulations and forms an integral part thereof.

SCHEDULE OF FEES

Fees	Amounts
1. Basic Fee: (Rule 15.2(a))	
(a) if the international application contains not more than 30 sheets	762 Swiss francs
(b) if the international application contains more than 30 sheets	762 Swiss francs plus 15 Swiss francs for each sheet in excess of 30 sheets
2. Designation Fee: (Rule 15.2(a))	
(a) for designations made under Rule 4.9(a)	185 Swiss francs per designation, provided that any designation made under Rule 4.9(a) in ex- cess of 10 shall not require the payment of a designation fee
(b) for designations made under Rule 4.9(b) and confirmed under Rule 4.9(c)	185 Swiss francs per designation
3. Confirmation Fee: (Rule 15.5(a))	50% of the sum of the designation fees payable under item 2(b)
4. Handling Fee: (Rule 57.2(a))	233 Swiss francs