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| MM/LD/WG/13/3 | | |
| ORIGINAL: English | | |
| DATE: September 1, 2015 | | |

**Working Group on the Legal Development of the Madrid System for the International Registration of Marks**

**Thirteenth Session**

**Geneva, November 2 to 6, 2015**

Information Relating to the Review of the Application of Article 9*Sexies*(1)(B) of the Protocol Relating to the madrid agreement concerning the International registration of marks

*Document prepared by the International Bureau*

# Introduction

According to paragraph (1)(a) of Article 9*sexies* of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (hereinafter referred to, respectively, as “Article 9*sexies*”, “the Protocol” and “the Agreement”), in the mutual relations between States that are both bound by both treaties of the Madrid System for the International Registration of Marks, the Protocol alone shall be applicable. Nevertheless, paragraph (1)(b) of the same Article renders inoperative in these mutual relations two declarations; the declarations made under Article 5(2) of the Protocol, extending the refusal period, and Article 8(7) of the Protocol, concerning individual fees. As a result, in these mutual relations, the standard refusal period of one year and the standard regime of complementary and supplementary fees apply. Paragraph (2) of Article 9*sexies* requires that the Madrid Union Assembly review the application of paragraph (1)(b) with a view to restrict its scope or repeal it.

At its tenth session, the Working Group on the Legal Development of the Madrid System for the International Registration of Marks (hereinafter referred to as “the Working Group”) discussed document MM/LD/WG/10/3 entitled “Information Relating to the Review of the Application of Article 9*sexies*(1)(b) of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks”.

The Working Group concluded that, at the time, Article 9*sexies*(1)(b) should be neither repealed nor restricted and that its application would be reviewed by the Working Group after a period of three years. It was further agreed that any member State of the Madrid Union, or the International Bureau, may propose that the issue be revisited at an earlier time.

This document provides updated information concerning the application of paragraph (1)(b) of Article 9*sexies* and, in particular, with respect to the non-application of declarations made under Article 5(2)(b) and (c) or Article 8(7) of the Protocol, in the mutual relations between States both bound by both the Agreement and the Protocol.

More particularly, in Part I, the document reviews, in general terms, the number of designations recorded in the course of the year 2014, and seeks to present an overview of the number of designations that were affected by paragraph (1)(b) of Article 9*sexies*, in the context of Article 5(2) (notification of provisional refusal) and Article 8(7) (individual fees) of the Protocol.

In Part II, the document elaborates upon the data by identifying the particular Contracting Parties concerned by the non-application of declarations made under Article 5(2) of the Protocol, following the application of paragraph (1)(b) of Article 9*sexies*. Part III of the document then performs the same exercise with regard to Article 8(7) of the Protocol.

In Part IV, the document presents an analysis of the distribution of (standard) fees collected in 2012, 2013 and 2014, resulting from the application of Article 9*sexies*.

Finally, in Part V, the document performs a simulation of the amounts of individual fees that would have been payable in the cases referred to in Part IV, had Article 8(7) of the Protocol been operative in the years in question.

# Part I: Review of the Application of Paragraph (1)(b) of Article 9*sexies* of the Protocol

The following 54 States are bound by both the Agreement and the Protocol[[1]](#footnote-2): Albania (AL), Armenia (AM), Austria (AT), Azerbaijan (AZ), Belarus (BY), Belgium (BX)[[2]](#footnote-3), Bhutan (BT), Bosnia and Herzegovina (BA), Bulgaria (BG), China (CN), Croatia (HR), Cuba (CU), Cyprus (CY), Czech Republic (CZ), Democratic People’s Republic of Korea (KP), Egypt (EG), France (FR), Germany (DE), Hungary (HU), Iran (Islamic Republic of) (IR), Italy (IT), Kazakhstan (KZ), Kenya (KE), Kyrgyzstan (KG), Latvia (LV), Lesotho (LS), Liberia (LR), Liechtenstein (LI), Luxembourg (BX)2, Monaco (MC), Mongolia (MN), Montenegro (ME), Morocco (MA), Mozambique (MZ), Namibia (NA), Netherlands (BX)2, Poland (PL), Portugal (PT), Republic of Moldova (MD), Romania (RO), Russian Federation (RU), San Marino (SM), Serbia (RS), Sierra Leone (SL), Slovakia (SK), Slovenia (SI), Spain (ES), Sudan (SD), Swaziland (SZ), Switzerland (CH), Tajikistan (TJ), The former Yugoslav Republic of Macedonia (MK), Ukraine (UA) and Viet Nam (VN).

## Time Limit for Notification of a Provisional Refusal

A declaration under Article 5(2)(b) of the Protocol has been made by 14 of the above‑mentioned 54 States, of which a further six have also made a declaration under Article 5(2)(c) of the Protocol (see paragraphs 21 and 22, below).

It is recalled, briefly, that under paragraph 2(b) of Article 5 of the Protocol, a Contracting Party may declare that, for international registrations made under the Protocol, the time limit of one year for the notification of a provisional refusal may be replaced by 18 months. Under paragraph 2(c), that period may be further extended beyond the time limit of 18 months in the case of a refusal of protection resulting from an opposition.

The most recent year for which complete data is available is 2014.

In the year 2014, a total of 342,591 designations (in international registrations and subsequent designations), was recorded. Of those, 110,400 were designations in which the Office of origin or of the Contracting Party of the holder and the Office of the designated Contracting Party were Offices of States both bound by both the Agreement and the Protocol.

Out of this number of 110,400 designations, in 40,829 cases a declaration made under Article 5(2) of the Protocol was rendered inoperative by the application of paragraph (1)(b) of Article 9*sexies*.

The following table contains data concerning designations in international registrations and subsequent designations for the period from 2012 to 2014.

#### Table I: Designations in Which a Declaration Made Under Article 5(2) of the Protocol (Time Limit for Notification of Provisional Refusal) of the Protocol Was Rendered Inoperative (2012 to 2014)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Year | Total Designations Recorded | States Bound Only by one Treaty | States Both Bound by Both Treaties | Designations in Which a Declaration Under Article 5(2) of the Protocol Was Inoperative |
| 2012 | 328,019 | 193,256 | 134,763 | 49,243 |
| 2013 | 351,526 | 225,316 | 126,210 | 46,204 |
| 2014 | 342,591 | 232,191 | 110,400 | 40,829 |

## Fees

Of the 54 States referred to in paragraph 9, above, 15 have made a declaration under Article 8(7) of the Protocol (see paragraph 28, below).

It is recalled, briefly, that under Article 8(7) of the Protocol, a Contracting Party may declare that, in connection with each international registration in which it is designated and in connection with the renewal of such international registration, it wishes to receive an individual fee.

In the year 2014, a total of 626,364 designations were recorded, resulting from newly recorded international registrations, subsequent designations, or the renewal of existing international registrations. Of those, 295,227 concerned designations in which the Office of origin or of the Contracting Party of the holder and the Office of the designated Contracting Party were Offices of States both bound by both the Agreement and the Protocol.

Out of this number of 295,227 designations, in 105,172 cases a declaration made under Article 8(7) of the Protocol was rendered inoperative by the application of paragraph (1)(b) of Article 9*sexies*.

The following table contains data concerning designations in international registrations, subsequent designations and renewals for the period from 2012 to 2014.

#### Table II: Designations in Which a Declaration Made Under Article 8(7) of the Protocol (Individual Fees) of the Protocol Was Rendered Inoperative (2012 to 2014)

|  |  |  |  |
| --- | --- | --- | --- |
| Year | New Recorded Designations and Renewed Designations | States Both Bound by Both Treaties | Declaration Under Article 8(7) of the Protocol Inoperative |
| 2012 | 579,083 | 307,812 | 106,276 |
| 2013 | 620,201 | 308,977 | 107,266 |
| 2014 | 626,364 | 295,227 | 105,172 |

# Part II: Review of the non-application of declarations made under Article 5(2)(b) and (c) of the Protocol – designations recorded in 2014 in which such declarations were rendered inoperative

The following 14 States, bound by both the Agreement and the Protocol, have made a declaration under Article 5(2)(b) of the Protocol, extending the time limit for refusal to 18 months: Armenia, Belarus, Bulgaria, China, Cyprus, Iran (Islamic Republic of), Italy, Kenya, Poland, San Marino, Slovakia, Switzerland, Tajikistan and Ukraine.

Of those 14 States, six have also made a declaration under Article 5(2)(c) of the Protocol, extending the time limit for refusal beyond 18 months in the case of refusal based upon opposition: China, Cyprus, Iran (Islamic Republic of), Italy, Kenya and Ukraine.

It has already been noted above that in 2014, as a result of the application of paragraph 1(b) of Article 9*sexies*, 40,829 designations were subjected to the standard time limit of 12 months for the notification of a provisional refusal.

The Offices of origin of the following States generated almost 72% of the designations recorded in 2014 in which a declaration under Article 5(2) of the Protocol was rendered inoperative: Germany (19%), France (14%), Russian Federation (11%), Italy (10%), China (9%) and Switzerland (9%). On the other hand, with regard to designated Contracting Parties, the following States represented over 73% of the designations recorded in 2014, in which a declaration under Article 5(2) of the Protocol was rendered inoperative: China (23%), Switzerland (17%), Ukraine (13%), Belarus (10%), Italy (6%) and Poland (5%).

Table III, below, sets out, by reference to Contracting Parties concerned, the numbers of designations, recorded in 2014, in which a declaration made under Article 5(2) of the Protocol was rendered inoperative. The rows across present those designations by Office of origin. The columns down represent designated Contracting Parties. For instance, looking at the first row, it can be seen that the Office of Germany was the Office of origin in a total of 7,568 of such designations. Of those designations, the Office of China was the Office of a designated Contracting Party in 1,962 cases, the Office of Switzerland in 2,418 cases, and so on.

In the table, rows and columns are presented in descending order, sorted by grand total. Therefore, in 2014, the Office of Germany was the Office of origin in the highest number of such designations, i.e., in which a declaration made under Article 5(2) of the Protocol was rendered inoperative. On the other hand, China was the most designated Contracting Party with respect to such designations.

#### Table III: Designations Recorded in 2014, in Which a Declaration Made Under Article 5(2) of the Protocol Was Rendered Inoperative

| 2014 | Designated Office | | | | | | | | | | | | | | Grand Total |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Office of  Origin | CN | CH | UA | BY | IT | PL | AM | IR | TJ | BG | SK | SM | KE | CY |
| DE | 1,962 | 2,418 | 857 | 536 | 284 | 266 | 170 | 315 | 141 | 144 | 149 | 92 | 177 | 57 | 7,568 |
| FR | 1,796 | 1,468 | 580 | 272 | 395 | 238 | 132 | 205 | 96 | 108 | 117 | 77 | 139 | 66 | 5,689 |
| RU | 515 | 145 | 865 | 899 | 245 | 252 | 498 | 65 | 404 | 205 | 160 | 16 | 17 | 129 | 4,415 |
| IT | 1,455 | 859 | 524 | 337 | 0 | 71 | 168 | 248 | 121 | 50 | 46 | 117 | 81 | 35 | 4,112 |
| CN | 0 | 443 | 510 | 375 | 500 | 319 | 176 | 479 | 237 | 158 | 133 | 103 | 256 | 112 | 3,801 |
| CH | 1,326 | 0 | 633 | 346 | 310 | 141 | 210 | 180 | 135 | 65 | 81 | 134 | 119 | 41 | 3,721 |
| BX | 860 | 692 | 330 | 199 | 104 | 78 | 104 | 119 | 84 | 46 | 48 | 48 | 92 | 36 | 2,840 |
| AT | 213 | 424 | 156 | 92 | 110 | 43 | 25 | 38 | 22 | 32 | 63 | 24 | 16 | 5 | 1,263 |
| ES | 328 | 139 | 129 | 79 | 48 | 22 | 53 | 62 | 35 | 10 | 10 | 21 | 28 | 25 | 989 |
| UA | 109 | 31 | 0 | 257 | 54 | 121 | 114 | 14 | 84 | 52 | 54 | 2 | 2 | 23 | 917 |
| HU | 57 | 27 | 158 | 141 | 11 | 117 | 124 | 3 | 15 | 111 | 126 | 10 | 1 | 9 | 910 |
| CZ | 95 | 81 | 153 | 114 | 45 | 104 | 31 | 14 | 6 | 84 | 107 | 7 | 1 | 38 | 880 |
| PL | 94 | 35 | 136 | 86 | 35 | 0 | 29 | 17 | 11 | 35 | 48 | 2 | 3 | 12 | 543 |
| BG | 67 | 29 | 80 | 54 | 29 | 19 | 39 | 24 | 31 | 0 | 13 | 9 | 11 | 6 | 411 |
| LI | 53 | 57 | 55 | 48 | 15 | 14 | 41 | 6 | 29 | 10 | 8 | 8 | 14 | 13 | 371 |
| SI | 22 | 33 | 32 | 31 | 42 | 20 | 22 | 12 | 22 | 20 | 19 | 1 | 1 | 13 | 290 |
| PT | 102 | 60 | 16 | 9 | 22 | 7 | 7 | 9 | 5 | 4 | 3 | 6 | 8 | 1 | 259 |
| BY | 29 | 4 | 116 | 0 | 6 | 30 | 23 | 6 | 10 | 9 | 9 | 0 | 0 | 4 | 246 |
| SK | 38 | 19 | 37 | 14 | 4 | 31 | 0 | 2 | 2 | 14 | 0 | 0 | 0 | 3 | 164 |
| IR | 21 | 8 | 11 | 13 | 9 | 6 | 19 | 0 | 20 | 7 | 6 | 0 | 13 | 8 | 141 |
| RS | 10 | 15 | 15 | 7 | 19 | 10 | 0 | 5 | 0 | 40 | 11 | 2 | 0 | 4 | 138 |
| LV | 14 | 10 | 32 | 33 | 9 | 13 | 8 | 3 | 7 | 4 | 3 | 0 | 0 | 4 | 140 |
| MD | 22 | 7 | 27 | 23 | 5 | 20 | 6 | 0 | 3 | 4 | 5 | 0 | 0 | 2 | 124 |
| MC | 30 | 22 | 13 | 4 | 8 | 3 | 6 | 12 | 2 | 1 | 1 | 2 | 4 | 1 | 109 |
| HR | 13 | 10 | 11 | 11 | 18 | 14 | 1 | 0 | 1 | 12 | 12 | 1 | 0 | 1 | 105 |
| AM | 21 | 4 | 15 | 18 | 13 | 16 | 0 | 2 | 4 | 5 | 2 | 0 | 0 | 2 | 102 |
| CY | 21 | 7 | 10 | 10 | 1 | 2 | 8 | 6 | 5 | 2 | 1 | 5 | 6 | 0 | 85 |
| RO | 16 | 6 | 13 | 3 | 4 | 10 | 2 | 0 | 1 | 18 | 6 | 1 | 0 | 2 | 82 |
| MA | 18 | 16 | 4 | 1 | 17 | 5 | 1 | 6 | 1 | 2 | 1 | 1 | 4 | 1 | 78 |
| VN | 35 | 3 | 3 | 1 | 5 | 6 | 0 | 3 | 0 | 4 | 8 | 0 | 1 | 0 | 69 |
| KZ | 9 | 1 | 11 | 11 | 3 | 2 | 3 | 0 | 11 | 1 | 0 | 0 | 0 | 0 | 52 |
| EG | 5 | 3 | 3 | 2 | 2 | 0 | 1 | 8 | 0 | 1 | 0 | 0 | 3 | 2 | 30 |
| SM | 12 | 10 | 8 | 2 | 0 | 0 | 1 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 36 |
| CU | 4 | 2 | 4 | 2 | 0 | 2 | 3 | 1 | 3 | 2 | 2 | 2 | 2 | 1 | 30 |
| MK | 0 | 5 | 0 | 0 | 3 | 3 | 0 | 1 | 0 | 13 | 3 | 0 | 0 | 0 | 28 |
| AL | 4 | 3 | 4 | 0 | 3 | 2 | 0 | 2 | 1 | 2 | 2 | 1 | 2 | 1 | 27 |
| ME | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 1 | 1 | 1 | 1 | 15 |
| KG | 2 | 0 | 1 | 2 | 0 | 0 | 1 | 0 | 4 | 0 | 0 | 0 | 0 | 0 | 10 |
| BA | 1 | 2 | 0 | 0 | 2 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 7 |
| KE | 7 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 9 |
| SD | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4 | 0 | 4 |
| KP | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| MZ | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| MN | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| Grand  Total | 9,392 | 7,099 | 5,556 | 4,036 | 2,385 | 2,011 | 2,027 | 1,872 | 1,556 | 1,277 | 1,260 | 693 | 1,006 | 659 | 40,829 |

For the sake of completeness, the following table provides data with regard to designations recorded in 2014 concerning States, both bound by both the Agreement and the Protocol, where the Office of the designated Contracting Party had not made a declaration under Article 5(2) of the Protocol. A total of 69,571 of such designations was recorded in 2014, between States both bound by both the Agreement and the Protocol. The following table presents this information in a manner similar to the one used in Table III.

#### Table IV: Designations Concerning States Both Bound by Both the Agreement and the Protocol, Recorded in 2014, in Which the Office of the Designated Contracting Party Had Not Made a Declaration Under Article 5(2) of the Protocol

|  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 2014 | Designated Office | | | | | | | | | | | Grand Total |
| Office of Origin | RU | KZ | VN | DE | RS | MA | AZ | EG | MD | FR | Others |
| DE | 1,704 | 414 | 552 | 0 | 512 | 307 | 232 | 345 | 391 | 295 | 5,372 | 10,124 |
| CN | 986 | 399 | 616 | 561 | 180 | 257 | 218 | 478 | 149 | 528 | 5,069 | 9,441 |
| CH | 1162 | 371 | 364 | 577 | 364 | 306 | 236 | 356 | 226 | 373 | 4,134 | 8,469 |
| FR | 1328 | 305 | 501 | 425 | 242 | 696 | 180 | 346 | 133 | 0 | 4,132 | 8,289 |
| IT | 1277 | 352 | 250 | 107 | 321 | 287 | 265 | 305 | 209 | 107 | 2,651 | 6,131 |
| RU | 0 | 937 | 127 | 338 | 154 | 55 | 539 | 88 | 451 | 258 | 3,182 | 6,129 |
| BX | 686 | 196 | 186 | 209 | 203 | 204 | 142 | 181 | 114 | 200 | 1,870 | 4,191 |
| AT | 238 | 38 | 39 | 219 | 132 | 38 | 31 | 47 | 63 | 69 | 1,012 | 1,926 |
| UA | 301 | 272 | 18 | 117 | 17 | 6 | 133 | 16 | 169 | 43 | 644 | 1,736 |
| HU | 159 | 127 | 107 | 16 | 138 | 6 | 133 | 8 | 130 | 103 | 785 | 1,712 |
| Others | 1,558 | 660 | 256 | 432 | 622 | 330 | 372 | 290 | 407 | 344 | 6,152 | 11,422 |
| Grand Total | 9,399 | 4,071 | 3,016 | 3,002 | 2,885 | 2,492 | 2,481 | 2,460 | 2,442 | 2,321 | 35,002 | 69,571 |

# PART III: Review of the non-application of declarations made under Article 8(7) of the Protocol – new and renewed designations recorded in 2014 in which A declaration under Article 8(7) of the Protocol was rendered inoperative

The following 15 States, bound by both the Agreement and the Protocol, have made a declaration under Article 8(7) of the Protocol requiring the payment of individual fees: Armenia, Belarus, Benelux[[3]](#footnote-4), Bulgaria, China, Cuba, Italy, Kenya, Kyrgyzstan, Republic of Moldova, San Marino, Switzerland, Tajikistan, Ukraine and Viet Nam.

It has already been noted above that in 2014, as a result of the application of paragraph 1(b) of Article 9*sexies*, 105,172 new recorded designations and renewed designations were subject to the payment of standard fees, instead of individual fees.

The Offices of origin of the following States generated 81% of the designations, recorded or renewed in 2014, in which a declaration under Article 8(7) of the Protocol was rendered inoperative: Germany (22%), France (19%), Italy (11%), Switzerland (10%), Benelux (7%), Russian Federation (6%) and China (5%). On the other hand, with regard to designated Contracting Parties, the following States represented over 70% of the designations recorded or renewed in 2014, in which a declaration under Article 8(7) of the Protocol was rendered inoperative: Switzerland (16%), China (15%), Italy (10%), Benelux (10%), Ukraine (10%) and Belarus (7%).

Table V, below, sets out, by reference to the Contracting Party concerned, the number of designations, recorded in 2014, in which a declaration made under Article 8(7) of the Protocol was rendered inoperative. The rows across present those designations by Office of origin. The columns down represent designated Contracting Parties. For instance, looking at the first row, it can be seen that the Office of Germany was the Office of origin in a total of such 23,705 designations. On the other hand, the Office of Switzerland was the Office of a designated Contracting Party in 5,664 of such designations, the Office of China in 3,777 designations, and so on.

In the table, rows and columns are presented in descending order, sorted by grand total. Thus, in 2014, the Office of Germany was the Office of origin in the highest number of such designations recorded in 2014 – i.e., in which a declaration made under Article 8(7) of the Protocol was rendered inoperative. On the other hand, Switzerland was the most designated Contracting Party, with respect to such designations.

### *Table V: Designations, Recorded or Renewed in 2014, in Which a Declaration Made Under Article 8(7) of the Protocol Was Rendered Inoperative*

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 2014 | Designated Office | | | | | | | | | | | | | | | Grand Total |
| Office of Origin | CH | CN | IT | UA | BX | BY | VN | BG | MD | AM | KG | TJ | SM | CU | KE |
| DE | 5,664 | 3,777 | 2,264 | 2,240 | 2,465 | 1,538 | 1,119 | 1,092 | 855 | 491 | 504 | 470 | 502 | 393 | 331 | 23,705 |
| FR | 3,954 | 2,936 | 2,869 | 1,497 | 3,227 | 849 | 1,212 | 774 | 420 | 362 | 366 | 344 | 693 | 330 | 220 | 20,053 |
| IT | 2,270 | 2,501 |  | 1,164 | 1,230 | 776 | 689 | 547 | 490 | 339 | 305 | 296 | 484 | 368 | 165 | 11,625 |
| CH |  | 2117 | 1,720 | 1,126 | 1,500 | 742 | 782 | 441 | 465 | 396 | 390 | 342 | 481 | 315 | 203 | 11,021 |
| BX | 1,837 | 1,403 | 1,093 | 741 |  | 482 | 428 | 365 | 300 | 259 | 237 | 241 | 276 | 155 | 146 | 7,963 |
| RU | 208 | 628 | 327 | 1,072 | 218 | 1,117 | 171 | 307 | 621 | 641 | 613 | 535 | 29 | 77 | 29 | 6,593 |
| CN | 580 |  | 767 | 640 | 513 | 496 | 773 | 267 | 189 | 227 | 333 | 304 | 149 | 292 | 327 | 5,857 |
| AT | 994 | 384 | 562 | 314 | 343 | 195 | 94 | 202 | 137 | 54 | 58 | 45 | 84 | 32 | 22 | 3,520 |
| ES | 518 | 546 | 394 | 272 | 376 | 180 | 161 | 125 | 112 | 105 | 87 | 83 | 127 | 177 | 52 | 3,315 |
| CZ | 175 | 149 | 172 | 345 | 152 | 223 | 47 | 237 | 117 | 53 | 28 | 19 | 24 | 12 | 3 | 1,756 |
| HU | 55 | 82 | 50 | 227 | 39 | 203 | 141 | 164 | 179 | 164 | 55 | 54 | 18 | 16 | 4 | 1,451 |
| PL | 79 | 137 | 89 | 281 | 76 | 211 | 45 | 118 | 97 | 65 | 58 | 41 | 11 | 11 | 6 | 1,325 |
| UA | 35 | 119 | 59 |  | 31 | 276 | 23 | 59 | 191 | 128 | 107 | 95 | 2 | 9 | 4 | 1,138 |
| BG | 47 | 83 | 53 | 163 | 35 | 108 | 32 |  | 88 | 83 | 77 | 73 | 13 | 10 | 20 | 986 |
| LI | 138 | 99 | 87 | 98 | 84 | 87 | 59 | 54 | 51 | 55 | 51 | 48 | 35 | 20 | 18 | 884 |
| SI | 56 | 34 | 98 | 87 | 45 | 73 | 20 | 76 | 51 | 49 | 47 | 45 | 3 | 1 | 2 | 687 |
| SK | 28 | 46 | 33 | 74 | 27 | 33 | 13 | 39 | 17 | 11 | 4 | 2 | 1 | 9 | 8 | 437 |
| PT | 98 | 113 | 49 | 20 | 59 | 11 | 18 | 8 | 10 | 8 | 5 | 5 | 13 | 12 |  | 337 |
| LV | 12 | 18 | 10 | 46 | 9 | 46 | 1 | 5 | 18 | 12 | 13 | 10 |  |  |  | 319 |
| BY | 5 | 35 | 8 | 128 | 9 |  | 6 | 14 | 37 | 30 | 28 | 17 |  | 2 | 6 | 278 |
| MC | 53 | 44 | 39 | 19 | 36 | 9 | 16 | 7 | 8 | 8 | 6 | 4 | 16 | 7 | 1 | 218 |
| RO | 17 | 19 | 18 | 28 | 16 | 10 | 11 | 28 | 49 | 4 | 2 | 3 | 10 | 2 |  | 200 |
| MD | 7 | 31 | 6 | 45 | 10 | 37 | 9 | 5 |  | 9 | 10 | 8 |  |  | 16 | 192 |
| IR | 11 | 24 | 12 | 14 | 8 | 15 | 9 | 7 |  | 20 | 18 | 24 | 3 | 11 |  | 177 |
| HR | 16 | 16 | 26 | 26 | 11 | 26 | 5 | 25 | 7 | 2 | 1 | 3 | 5 | 3 | 1 | 173 |
| MA | 33 | 21 | 40 | 7 | 42 | 1 | 3 | 6 | 1 | 1 | 1 | 1 | 3 | 2 | 4 | 166 |
| RS | 14 | 10 | 19 | 15 | 5 | 7 | 1 | 40 | 3 |  |  |  | 2 |  |  | 116 |
| AM | 4 | 21 | 13 | 17 | 1 | 19 | 3 | 5 | 5 |  | 4 | 4 |  | 1 |  | 97 |
| VN | 5 | 39 | 8 | 8 | 6 | 3 |  | 8 |  |  | 1 | 1 |  | 7 | 1 | 87 |
| EG | 8 | 9 | 7 | 8 | 6 | 4 | 9 | 6 | 5 | 4 | 3 | 2 | 4 | 7 | 3 | 85 |
| KZ | 1 | 12 | 3 | 13 | 2 | 11 |  | 2 | 3 | 3 | 20 | 11 |  | 1 | 6 | 85 |
| CY | 7 | 19 | 1 | 9 | 2 | 9 | 9 | 2 | 3 | 6 | 2 | 4 | 5 | 1 |  | 82 |
| SM | 15 | 14 |  | 8 | 2 | 2 | 1 | 1 | 4 | 1 | 1 | 2 |  |  |  | 51 |
| CU | 4 | 5 | 2 | 6 | 2 | 3 | 4 | 4 | 3 | 3 | 3 | 3 | 3 |  | 2 | 47 |
| KE |  | 7 | 1 |  | 1 |  | 1 |  |  |  |  |  |  |  |  | 25 |
| MK | 4 |  | 3 | 3 |  |  |  | 14 | 1 |  |  |  |  |  | 2 | 25 |
| AL | 3 | 4 | 3 | 4 | 2 |  |  | 2 | 1 |  | 2 | 1 | 1 |  |  | 24 |
| BA | 7 | 3 | 6 | 1 | 4 | 1 |  | 2 |  |  |  |  |  |  |  | 23 |
| AZ | 1 | 2 | 3 | 4 | 3 | 4 |  | 1 | 3 |  | 1 | 1 |  |  | 1 | 16 |
| ME | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 1 | 1 | 1 | 1 | 1 | 1 |  | 10 |
| KG |  | 2 |  | 1 |  | 2 |  |  |  | 1 |  | 4 |  |  |  | 10 |
| KP |  | 2 |  |  | 1 |  |  |  |  |  |  |  |  |  | 4 | 4 |
| MN |  | 1 |  |  |  |  |  |  |  |  |  |  |  |  |  | 3 |
| AN | 1 |  | 1 |  | 1 |  |  |  |  |  |  |  |  |  |  | 3 |
| MZ |  | 1 | 1 |  |  |  |  |  |  |  |  |  |  |  |  | 2 |
| SD |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | 1 |
| Grand Total | 16,966 | 15,514 | 10,918 | 10,772 | 10,600 | 7,810 | 5,916 | 5,062 | 4,542 | 3,595 | 3,442 | 3,146 | 2,998 | 2,284 | 1,607 | 105,172 |

For the sake of completeness, the following table provides data with regard to designations recorded in 2014, concerning States, both bound by both the Agreement and the Protocol, where the Office of the designated Contracting Party had not made a declaration under Article 8(7) of the Protocol. A total of 190,055 of such designations was recorded in 2014, between States both bound by both the Agreement and the Protocol. The table presents this information in a manner similar to that used in Table V.

### *Table VI: Designations Concerning States both bound by both the Agreement and the Protocol, recorded or renewed in 2014, in which the Office of the designated Contracting Party had not made a declaration under Article 8(7) of the Protocol*

|  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 2014 | Designated Office | | | | | | | | | | | Grand Total |
| Office of Origin | RU | DE | AT | FR | ES | RS | PT | PL | HU | CZ | Others |
| DE | 3,563 |  | 3,078 | 2,401 | 1,897 | 1,628 | 1,376 | 1,966 | 1,520 | 1,759 | 18,050 | 37,238 |
| FR | 2,691 | 2,669 | 1,819 |  | 2575 | 1,201 | 2,017 | 1,232 | 1,256 | 1,182 | 15,708 | 32,350 |
| CH | 1,951 | 2,089 | 1,853 | 1,838 | 1,205 | 955 | 865 | 691 | 781 | 774 | 11,964 | 24,966 |
| IT | 2,341 | 1,248 | 1,152 | 1,359 | 1,073 | 1,090 | 936 | 622 | 760 | 687 | 12,190 | 23,458 |
| BX | 1,371 | 1,306 | 869 | 1,455 | 958 | 590 | 718 | 526 | 572 | 529 | 7,102 | 15,996 |
| CN | 1,207 | 816 | 341 | 797 | 625 | 257 | 383 | 466 | 292 | 307 | 6,948 | 12,439 |
| RU |  | 461 | 221 | 343 | 305 | 226 | 186 | 346 | 233 | 282 | 4,880 | 7,483 |
| AT | 449 | 682 |  | 380 | 239 | 365 | 159 | 262 | 494 | 422 | 3,481 | 6,933 |
| ES | 564 | 365 | 265 | 426 |  | 210 | 358 | 154 | 179 | 165 | 3,003 | 5,689 |
| CZ | 388 | 257 | 264 | 176 | 126 | 167 | 98 | 348 | 295 |  | 1,962 | 4,081 |
| Others | 2,037 | 903 | 609 | 796 | 573 | 1,017 | 385 | 861 | 690 | 870 | 10,681 | 19,422 |
| Grand Total | 16,562 | 10,796 | 10,471 | 9,971 | 9,576 | 7,706 | 7,481 | 7,474 | 7,072 | 6,977 | 95,969 | 190,055 |

# PART IV: Distribution of fees, collected in 2012, 2013 and 2014, resulting from the application of paragraph (1)(b) of Article 9*sexies* of the Protocol

Paragraph (1)(b) of Article 9*sexies*, by rendering inoperative declarations made under Article 8(7) in the mutual relations between States both bound by both the Agreement and the Protocol, results in the application of the standard fees regime of Articles 7(1) and 8(2) of the Protocol.

The standard regime of Articles 7(1) and 8(2) of the Protocol is comprised of a basic fee, a supplementary fee for each class of the International Classification beyond three, and a complementary fee.

According to paragraphs (5) and (6) of Article 8 of the Protocol, the supplementary and complementary fees collected are divided amongst the interested Contracting Parties in proportion to the number of designations received and according to a coefficient which is established in Rule 37 of the Common Regulations under the Madrid Agreement Concerning the International Registration of Marks and the Protocol Relating to that Agreement (“the Common Regulations”).

As a result, in the years 2012, 2013 and 2014, States bound by the Agreement and the Protocol, which had made a declaration under Article 8(7) of the Protocol, instead of receiving the notional amounts corresponding to individual fees contained in the simulation in Table X, below, actually received 11,73, 11,27 and 11,04 million Swiss francs, respectively, as their share in the supplementary and complementary fees collected with respect to designations in which the Office of origin was the Office of a State also bound by both treaties. Those amounts are set out more precisely in Tables VII, VIII and IX, below.

#### Table VII: Distribution of Standard Fees, Collected in 2012, in Which a Declaration Under Article 8(7) of the Protocol Was Rendered Inoperative

|  |  |  |  |
| --- | --- | --- | --- |
| 2012 | Complementary Fees | Supplementary Fees | Total in Swiss Francs |
| AM | 417,396.96 | 34,264.55 | 451,661.51 |
| BG | 609,313.97 | 53,189.38 | 662,503.35 |
| BX | 1,063,737.18 | 95,855.23 | 1,159,592.41 |
| BY | 837,159.10 | 70,187.73 | 907,346.83 |
| CH | 1,607,220.46 | 142,337.99 | 1,749,558.45 |
| CN | 1,663,168.10 | 134,462.09 | 1,797,630.19 |
| CU | 263,435.38 | 22,066.95 | 285,502.33 |
| IT | 729,712.61 | 65,737.25 | 795,449.86 |
| KG | 397,349.30 | 32,688.34 | 430,037.64 |
| MD | 495,672.97 | 41,311.14 | 536,984.11 |
| SM | 327,830.06 | 28,850.83 | 356,680.89 |
| SY | 177,838.59 | 12,908.44 | 190,747.03 |
| TJ | 365,475.76 | 30,040.72 | 395,516.48 |
| UA | 1,199,819.18 | 101,073.21 | 1,300,892.39 |
| VN | 656,617.46 | 53,622.06 | 710,239.52 |
| Total | 10,811,747.08 | 918,595.91 | 11,730,342.99 |

#### Table VIII: Distribution of Standard Fees, Collected in 2013, in Which a Declaration Under Article 8(7) of the Protocol Was Rendered Inoperative

|  |  |  |  |
| --- | --- | --- | --- |
| 2013 | Complementary Fees | Supplementary Fees | Total in Swiss Francs |
| AM | 411,516.83 | 30,756.29 | 442,273.12 |
| BG | 612,111.65 | 48,436.78 | 660,548.43 |
| BX | 1,049,839.39 | 84,981.22 | 1,134,820.61 |
| BY | 880,955.84 | 67,381.48 | 948,337.32 |
| CH | 1,572,317.59 | 125,468.24 | 1,697,785.83 |
| CN | 1,696,580.86 | 126,790.13 | 1,823,370.99 |
| CU | 274,905.82 | 20,734.89 | 295,640.71 |
| IT | 717,516.53 | 58,222.87 | 775,739.40 |
| KG | 392,321.69 | 29,676.64 | 421,998.33 |
| MD | 494,808.02 | 36,809.74 | 531,617.76 |
| SM | 309,142.76 | 24,582.89 | 333,725.65 |
| SY | 115,170.83 | 7,935.92 | 123,106.75 |
| TJ | 355,166.19 | 26,889.84 | 382,056.03 |
| UA | 1,303,473.40 | 99,761.87 | 1,403,235.27 |
| VN | 691,024.99 | 51,232.81 | 742,257.80 |
| Total | 10,876,852.39 | 808,905.32 | 11,274,240.88 |

#### Table IX: Distribution of Standard Fees, Collected in 2014, in Which a Declaration Under Article 8(7) of the Protocol Was Rendered Inoperative

|  |  |  |  |
| --- | --- | --- | --- |
| 2014 | Complementary Fees | Supplementary Fees | Total in Swiss Francs |
| AM | 411,860.75 | 33,193.96 | 445,054.71 |
| BG | 585,700.26 | 50,737.04 | 636,437.30 |
| BX | 989,272.26 | 87,277.57 | 1,076,549.83 |
| BY | 897,872.11 | 74,852.48 | 972,724.59 |
| CH | 1,540,445.44 | 134,320.79 | 1,674,766.23 |
| CN | 1,753,404.44 | 142,599.15 | 1,896,003.59 |
| CU | 257,286.95 | 20,884.62 | 278,171.57 |
| IT | 672,732.02 | 59,342.51 | 732,074.53 |
| KE | 262,775.44 | 19,908.32 | 282,683.76 |
| KG | 393,491.11 | 32,590.07 | 426,081.18 |
| MD | 520,958.48 | 41,759.17 | 562,717.65 |
| SM | 283,441.29 | 24,548.23 | 307,989.52 |
| TJ | 362,016.30 | 30,053.72 | 392,070.02 |
| UA | 1,235,918.27 | 103,295.82 | 1,339,214.09 |
| VN | 695,358.04 | 55,578.24 | 750,936.28 |
| Total | 10,189,801.14 | 851,599.18 | 11,041,400.32 |

# Part V: Simulation of the repeal of paragraph (1)(b) of Article 9*sexies* of the Protocol – notional amounts of individual fees payable for 2012, 2013 and 2014

Taking into account the number of new designations and renewed designations recorded in 2012, 2013 and 2014 in which a declaration under Article 8(7) of the Protocol was rendered inoperative, the International Bureau has been able to simulate the impact the said declaration would have had in the fee distribution of the concerned States, had it been operative.

This simulation makes the assumption that the number of designations and the number of classes in each designation would have remained the same.

In 2012, 2013 and 2014, in the absence of paragraph (1)(b) of Article 9*sexies*, States bound by both the Agreement and the Protocol which had made a declaration under Article 8(7) of the Protocol would have received 42,33, 42,19 and 38,01 million Swiss francs, respectively, as individual fees.

### *Table X: Simulation of Individual Fee Distribution, Based on New Designations and Renewed Designations, Recorded in 2012, 2013 and 2014, Assuming that Declarations Under Article 8(7) of the Protocol Had Been Operative*

|  |  |  |  |
| --- | --- | --- | --- |
|  | 2012 | 2013 | 2014 |
| AM | 1,014,378 | 1,006,411 | 859,467 |
| BG | 1,220,955 | 1,200,240 | 972,889 |
| BX | 4,648,033 | 4,635,739 | 4,188,606 |
| BY | 5,158,300 | 5,500,000 | 5,038,700 |
| CH | 7,846,700 | 7,661,900 | 7,512,650 |
| CN | 8,739,911 | 8,792,602 | 8,682,010 |
| CU[[4]](#footnote-5) | 478,505 | 489,904 | 378,365 |
| IT | 1,985,715 | 1,938,138 | 1,713,462 |
| KE[[5]](#footnote-6) | N/A | N/A | 227,946 |
| KG | 1,655,200 | 1,590,180 | 1,255,940 |
| MD | 1,580,102 | 1,516,210 | 1,304,321 |
| SM | 537,238 | 396,946 | 363,360 |
| SY[[6]](#footnote-7) | 1,061,113 | 739,271 | N/A |
| TJ | 743,218 | 981,962 | 820,060 |
| UA | 4,690,111 | 4,808,061 | 3,946,960 |
| VN | 979,326 | 939,889 | 754,927 |
| Total | 42,338,805 | 42,197,453 | 38,019,663 |

*The Working Group is invited to:*

*(i) consider the information presented in this document;*

*(ii) indicate whether it would recommend to the Madrid Union Assembly that paragraph (1)(b) of Article 9sexies be restricted in its scope or repealed; and,*

*(iii) indicate whether it would agree that any further review of the application of paragraph (1)(b) of Article 9sexies should be undertaken by the Working Group, at any moment hereafter, at the express request of any member of the Madrid Union or the International Bureau.*

[End of document]

1. Since June 29, 2013, in the relations between the Syrian Arab Republic and countries party both to the Agreement and the Protocol, the provisions of Article 9*sexies*(1)(b) of the Protocol ceased to apply. [↑](#footnote-ref-2)
2. The territories of Belgium, Luxembourg and the Kingdom of the Netherlands in Europe are to be deemed a single country, for the application of the Agreement, as from January 1, 1971, and for the application of the Protocol, as from April 1, 1998. Under Articles 9*quater* of the Agreement and the Protocol, their common Office is the Benelux Office for Intellectual Property (BOIP). [↑](#footnote-ref-3)
3. Benelux is deemed as a single country for the declaration under Article 8(7) of the Protocol. [↑](#footnote-ref-4)
4. Only the first part of a two‑part fee has been taken into account (Cuba has also made a two‑part fees declaration under Rule 34(3)(a) of the Common Regulations). [↑](#footnote-ref-5)
5. The simulation takes into account that the declaration concerning individual fees made by Kenya entered into force on March 12, 2014. [↑](#footnote-ref-6)
6. The simulation takes into account that from June 29, 2013, in the relations between the Syrian Arab Republic and countries party both to the Madrid Agreement and the Madrid Protocol, the provisions of Article 9*sexies*(1)(b) of the Protocol ceased to apply. [↑](#footnote-ref-7)