

**RECORDS
OF THE WASHINGTON
DIPLOMATIC CONFERENCE
ON THE PATENT
COOPERATION TREATY**

**WORLD INTELLECTUAL PROPERTY
ORGANIZATION
(WIPO)**

**RECORDS
OF THE WASHINGTON
DIPLOMATIC CONFERENCE
ON THE PATENT
COOPERATION TREATY**

1970



**GENEVA
1972**

EDITOR'S NOTE

These *Records* of the Washington Diplomatic Conference on the Patent Cooperation Treaty, 1970, contain all the documents relating to that conference which were issued before, during and after it.

The conference took place from May 25 to June 19, 1970.

The final text of the Patent Cooperation Treaty and the Regulations under the Treaty – as signed at the close of the Conference on June 19, 1970, and as opened for signature until end of 1970 – is printed twice in these *Records*: once with the “Notes” on the Treaty and Regulations under the Treaty (pages 9 to 161) and once opposite the drafts, the July 1969 draft (documents PCT/DC/4 and 5) and the March 1970 draft (documents PCT/DC/11 and 12), which served as the main bases of the discussions of the Conference (pages 282 to 515). The Notes were written by the International Bureau of WIPO. They are intended to facilitate the reading of the text of the Treaty and the Regulations thereunder by summarizing those provisions to which the text refers only by number. At the same time, they contain the cross-references between corresponding provisions in the Treaty and Regulations.

In addition to adopting the Treaty and Regulations, the Conference also adopted the Final Act and a Resolution, the texts of which are printed on pages 165 and 169, respectively.

The “Conference documents” are subdivided into four series: the “Main” series (starting on page 173) principally consists of observations on and proposed amendments to the drafts of the Treaty and Regulations, with the observations generally submitted by governments and international organizations and the proposed amendments by the governmental delegations participating in the Conference; the “WG” (Working Group) series (starting on page 516) consists of the working documents addressed to or submitted by the working groups set up during the Conference to examine particular questions which would facilitate the work of the two “Main Committees,” two bodies each consisting of all the delegations and all the observers and in the meetings of which most of the substantive discussions of the Conference took place; the “INF” (Information) series (starting on page 524) consists mainly of lists of documents; the “MISC” (Miscellaneous) series (starting on page 528) contains the rules of procedure and the agenda of the Conference, as well as the texts of the speeches delivered in the plenary sessions of the Conference by the US Secretary of State (Mr. William P. Rogers), the US Secretary of Commerce (Mr. Maurice H. Stans), the Director of BIRPI (Prof. G. H. C. Bodenhausen) and the Secretary General of the Conference (Dr. Arpad Bogsch).

The lists of participants in the Conference and officers of the Conference appear on pages 539 to 550.

The minutes of the Conference fall into three groups: those of the Plenary of the Conference (starting on page 553), those of the Main Committee I (starting on page 591) and those of the Main Committee II (starting on page 697). The minutes of the Plenary of the Conference are verbatim; those of the Main Committees I and II are summary minutes. They were prepared by the International Bureau after the Conference on the basis of tape recordings of the meetings of those three bodies. The drafts of the minutes were communicated to each participant and the text appearing in these *Records* takes into account the suggestion for amendment received from the participants.

The “Post-Conference documents” (pages 739 to 763) consist of papers prepared by the International Bureau after the Conference. They contain, in addition to the Notes on the Treaty and Regulations referred to above, a history of the Treaty (page 741), a summary of the Treaty and its advantages (page 746), and an analysis of the main differences between the drafts and the final texts (page 759).

Finally, the *Records* contain five different indexes.

The first two (page 767) are indexes to the Treaty and Regulations under the Treaty. The first of these two indexes, Part A, lists by number each Article of the Treaty and each Rule of the Regulations and indicates, under each of them, the pages where the final text, the drafts, the basic proposals, observations, amendments and references in the post-Conference documents concerning the particular Article or Rule are reprinted in these *Records*, as well as the serial numbers of those paragraphs of the minutes contained in these *Records* which reflect the discussions concerning the particular Article or Rule. The second index, Part B, is a catchword index, that is, an alphabetical listing of the main subject matters dealt with in the Treaty and Regulations. After each catchword, the number of the Article or Rule in which the particular subject is dealt with is indicated. By looking up in the Part A Index the Article or Rule so indicated, the reader will find the references to the pages or – in the case of the minutes – the paragraph numbers where the particular subject matter is treated.

The third index is an alphabetical list of States showing, under the name of each State, where to find names of the members of the delegation of that State, as well as the written observations submitted, the amendments filed, and the interventions made on behalf of that State.

The fourth index is an alphabetical list of the Organizations showing, under the name of each Organization, where to find names of observers representing that Organization, as well as the written observations and interventions made on behalf of it.

The fifth index is an alphabetical list of the participants indicating, under the name of each participant the State or Organization which he represented as well as the place in the *Records* where the name of the participant appears with his delegation, as an officer of the Conference or of a Committee, as a speaker in the Plenary or Main Committees, or as a plenipotentiary signing the Treaty or Final Act.

Geneva, 1972.

CONTENTS

THE PATENT COOPERATION TREATY, REGULATIONS UNDER THE PATENT COOPERATION TREATY, Notes	9
PATENT COOPERATION TREATY – Notes on the Patent Cooperation Treaty	11
Signatories	76
REGULATIONS UNDER THE PATENT COOPERATION TREATY – Notes on the Regulations under the Patent Cooperation Treaty	77
FINAL ACT	163
Text of the Final Act on the Conference	165
Signatories	165
RESOLUTION	167
Text of Resolution Concerning Preparatory Measures for Entry into Force of the Patent Cooperation Treaty	169
CONFERENCE DOCUMENTS	171
Conference Documents of the “Main” Series (PCT/DC/1 to PCT/DC/131)	173
List of Documents	173
Text of Documents	177
Documents PCT/DC/1 to PCT/DC/131	177
Final text of the Treaty and the Regulations opposite the drafts contained in documents PCT/DC/4, 5, 11 and 12	282
Conference Documents of the Working Group “WG” Series (PCT/DC/WG.II/1 to 9, WG.III/1, WG.IV/1 and 2, WG.V/1 to 4)	516
List of Documents	516
Text of Documents	517
Conference Documents of the Information “INF” Series (PCT/DC/INF/1 to PCT/DC/INF/10)	524
List of Documents	524
Text of Documents	525
Conference Documents of the Miscellaneous “MISC” Series (PCT/DC/MISC/1 to PCT/DC/MISC/13)	528
List of Documents	528
Text of Documents	529
PARTICIPANTS IN THE CONFERENCE	539
States Members of the Paris Union	541
Observer States	546
Intergovernmental Organizations	547
Non-Governmental Organizations	548
United International Bureaux for the Protection of Intellectual Property (BIRPI)	549
Officers and Committees of the Conference	549
VERBATIM AND SUMMARY MINUTES	551
Verbatim Minutes of the Plenary of the Conference	553
Summary Minutes of Main Committee I of the Conference	591
Summary Minutes of Main Committee II of the Conference	697

POST-CONFERENCE DOCUMENTS	739
History of the Patent Cooperation Treaty	741
Summary and Advantages of the Patent Cooperation Treaty	746
Main Differences between the 1969 Drafts and the Treaty and Regulations	759
Notes on the Patent Cooperation Treaty	763
Notes on the Regulations under the Patent Cooperation Treaty	763
Index to the Patent Cooperation Treaty and the Regulations under the Treaty	763
INDEXES	765
Indexes to the Patent Cooperation Treaty	769
A. Index to the Articles of the Patent Cooperation Treaty and to the Rules of the Regulations under the Treaty	769
B. Catchword Index to the Patent Cooperation Treaty and the Regulations under the Treaty	798
Index of States.	827
Index of Organizations	832
Index of Participants.	834

**THE PATENT COOPERATION
TREATY**

**REGULATIONS UNDER THE
PATENT COOPERATION TREATY**



NOTES

Patent Cooperation Treaty

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.

PCT/PCD/4 December 10, 1970 (Original: English)
 WIPO/BIRPI

Notes on the Patent Cooperation Treaty

The present document

These Notes are intended to serve two main purposes. One is to facilitate the reading of the text of the Treaty by providing, where a provision refers to other provisions of the Treaty, brief information on those other provisions, so that the reader should generally be able to avoid, as far as possible, turning to the page on which the provisions referred to appear. The other is to enable the reader to find rapidly in the Regulations the Rules which pertain to any given provision of the Treaty. To this end, the pertinent Rules are referred to by their number and in most cases also by their title.

NOTES ON THE INTRODUCTORY PROVISIONS

The “Introductory Provisions” consist of two Articles, one dealing with the establishment of the International Patent Cooperation Union (Article 1), the other with definitions (Article 2).

NOTES ON ARTICLE 1

PARAGRAPH (1): “Contracting States” are the States which are bound by the Treaty: see Articles 62 (Becoming Party to the Treaty) and 63 (Entry into Force of the Treaty). Only States members of the Paris Union may become Contracting States (see Article 62(1)). A State may be a Contracting State without being bound by the provisions of Chapter II (International Preliminary Examination): see Article 64(1).

Rendering special technical services includes patent information services and technical assistance to developing countries: see Chapter IV.

“Application” and “Union” are defined in Article 2(i) and 2(xvi), respectively.

PARAGRAPH (2): It could be maintained that this provision is not necessary since the Treaty does not contain anything that diminishes rights guaranteed under the Paris Convention. That this cannot be otherwise follows also from Article 19 of the Paris Convention which prohibits the conclusion of agreements contravening the provisions of the Paris Convention. Thus the paragraph merely serves to emphasize something that goes without saying.

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;

NOTES ON ARTICLE 2

ITEM (i) (“application”):

See Articles 1(1); 2(v)(vi)(vii)(viii)(xi)(a)(b); 3(1); 8(1), (2)(b); 16(1); 27(5); 44; 50(1); 63(1)(a)(i)(ii)(iii)(b).

See Rules 4.1(b)(v), 4.10(a), (a)(i)(iv), (b)(i), (c), (d), (e), 4.11, 4.13, 4.14; 9.1(iii); 20.6(b); 24.2(a); 33.1(c); 43.2, 43.6(b); 61.2(b); 64.1(b)(ii), 64.3; 66.7(a), (b); 70.10.

ITEM (ii) (“patent”):

See Articles 2(iii)(iv)(ix)(xii); 28(1); 41(1); 46; 50(1); 64(3)(c)(ii), (4)(a).

See Rules 4.1(b)(v); 9.1(iii); 33.1(c); 64.3; 70.10.

ITEM (iii) (“national patent”):

See Articles 2(vi)(ix); 4(1)(ii).

ITEM (iv) (“regional patent”):

See Articles 2(v)(vi)(ix)(x)(xii); 4(1)(ii); 45(1), (2).

See Rules 4.1(b)(iv); 15.1(ii), 15.2(b)(i)(ii), 15.5(c); 34.1(ii).

ITEM (v) (“regional application”):

See Article 2(x).

See Rules 4.10(a)(i)(iv), (b)(i); 34.1(ii).

ITEM (vi) (“national application”):

See Articles 2(viii); 4(1)(v), (4); 8(2)(b); 11(3); 15(5)(a)(b)(c); 22(1); 24(1); 26; 27(3), (4); 29(1); 39(2); 64(3)(c)(ii).

See Rules 4.1(a)(v), (c); 17.1(a); 18.4(c); 52.1(b); 78.1(b).

(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;

ITEM (vii) (“international application”):

See Articles 2(viii)(xi)(a)(b)(c)(xv); 3(1), (2), (4); 4(1)(i)(ii); 7(2)(i); 8(1), (2)(b); 9(1)(2); 10; 11(1), (1)(i)(ii)(iii), (iii)(a), (2)(a), (3), (4); 12(1), (2), (3); 13(1), (2)(a)(b); 14(1)(a)(b), (2), (3)(a), (4); 15(1), (5)(c); 16(2); 17(2)(a)(i), (3)(a)(b); 19(1), (2); 20(1)(a); 21(1), (2)(a)(b), (5), (6); 22(1); 23(1), (2); 24(1), (1)(i)(ii); 25(1)(a), (2)(a); 26; 27(1), (2), (2)(ii), (3), (4), (5), (7), (8); 28(2), (4); 29(1), (2)(iii), (4); 30(1)(a), (2)(a), (a)(i)(ii)(iii)(b)(c), (4); 31(1), (2)(a)(b), (3); 34(2)(b)(c)(ii), (3)(a)(b)(c), (4)(a)(i); 37(4)(a)(b); 39(1)(a); 40(1), (2); 41(2), (4); 42; 43; 45(1), (2); 46; 49; 57(5)(b); 64(2)(a)(i)(ii), (3)(a)(b)(c), (c)(ii), (4)(a)(c), (6)(a)(b); 65(1), (2); 66(2).

See Rules 3.3(a)(i)(ii); 4.2, 4.8(a), (b), 4.10(a)(i)(iv), (b)(i), (c), (d), 4.12(a), 4.13, 4.14; 6.2, 6.2(b), 6.5; 8.1(a)(ii), (d), 8.3; 9.1, 9.2; 10.1(f), 10.2; 11.1(a), (b), 11.2(a), 11.3, 11.4(a), (b), 11.5, 11.6(e), 11.7(a), 11.13(m), 11.14, 11.15; 12.1, 12.2; 13.1, 13.2(i)(ii), 13.3, 13.4, 13.5; 14.1(a); 15.1, 15.1(ii), 15.2(a)(i)(ii), 15.4(a), (a)(i), (b); 16.3; 17.1(a), 17.2(b), (c); 18.3, 18.4(a), (c); 19.1(a), 19.2(b); 20.1(a), 20.2(a), 20.4(a), 20.5(a), (b), (c), 20.7(i)(ii)(iii), 20.9; 21.1(a), (b), (c); 22.1(a), 22.2(a), (b), (e), 22.5; 23.1(b); 24.1, 24.2(a); 26.1(a), 26.4(b), 26.5(a), 26.6(a); 28.1(a); 29.1(a), 29.2; 31.1(a); 32.1(a), (b), (d); 33.1(c), 33.2(c), (d); 34.1(b)(ii); 35.1, 35.2(a)(i)(ii); 37.1, 37.2; 38.1, 38.2(a); 39.1; 40.1, 40.2(c); 41.1; 43.1, 43.4, 43.7; 44.3(a); 46.3, 46.4(a), 46.5(b); 47.1(b), 47.3; 48.1(a), 48.2(b)(ii), (i), 48.3(a), (b), (c), 48.4(a), 48.5, 48.6(a), (c); 49.1(c), 49.2, 49.3; 50.1(c), (d); 51.2, 51.4; 53.2(a)(iii), 53.3, 53.6; 54.2(i)(ii), 54.3(a)(i)(ii); 55.1, 55.2(a); 56.1, 56.2, 56.4; 59.1, 59.2; 61.2(b); 62.1(b); 64.1(b)(i)(ii); 66.1, 66.2(a)(i)(iii)(iv), 66.7(a), 66.8(a), (b); 67.1; 68.1, 68.2, 68.3(c); 70.2(c), 70.3, 70.12(i)(ii), 70.13, 70.16, 70.17(a), (b); 71.2(a); 74.1; 75.4(b); 76.2, 76.3; 86.1(i)(iv), 86.5; 87.1, 87.2(a); 90.2(d); 91.1(a), (b), (c), (e)(ii)(iii)(iv), (f), (g)(i); 92.1(a), 92.2(a), (b); 93.1, 93.2(a), 93.3; 94.1; 95.1(a).

ITEM (viii) (“application”):

See Articles 2(i)(v)(xi)(a)(b); 3(1); 8(1), (2)(b); 16(1); 27(5); 44; 50(1); 63(1)(a)(i)(ii)(iii)(b).

See Rules 4.1(b)(v), 4.10(a), (a)(i)(iv), (b)(i), (c), (d), (e), 4.11, 4.13, 4.14; 9.1(iii); 20.6(b); 24.2(a); 33.1(c); 34.1(d), (f); 43.2, 43.6(b); 61.2(b); 64.1(b)(ii), 64.3; 66.7(a), (b); 70.10.

ITEM (ix) (“patent”):

See Articles 2(i)(ii)(xii); 4(3); 28(1); 41(1); 43; 44; 46; 50(1); 64(3)(c)(ii), (4)(a).

See Rules 4.1(b)(v), 4.12(a), 4.13; 9.1(iii); 33.1(c); 34.1(d), (e); 43.6(b); 64.3; 70.10.

ITEM (x) (“national law”):

See Articles 4(1)(ii)(v), (4); 8(2)(b); 15(5)(a)(b); 17(3)(b); 19(3); 22(1), (3); 26; 27(1), (2), (3), (4), (5), (6), (7); 28(2), (3); 29(1), (2), (2)(i)(ii), (3), (4); 34(3)(b)(c); 35(2); 37(4)(a)(b); 39(1)(b); 41(2), (3); 45(2); 48(2)(a); 64(4)(a).

See Rules 2.3; 4.1(a)(v), (c), 4.4(c), 4.6(c); 5.1(a)(v); 6.3(c), 6.5; 13.5; 18.1(a), 18.2(a), (b), 18.4(c); 49.2; 52.1(a), (b); 76.2; 78.1(a), (b).

ITEM (xi) (“priority date”):

See Articles 13(1); 21(2)(a); 22(1); 29(3); 30(4); 39(1)(a); 40(1); 64(3)(b)(c)(ii), (4)(a).

See Rules 4.10(c); 15.4(b); 17.1(a); 22.1(a), (b), 22.2(d), (e), 22.3(a)(i)(ii); 23.1(b); 32.1(a); 33.1(c); 42.1; 46.1; 61.2(c); 70.10; 75.1(a); 78.1(a), (b), 78.2, 78.3.

(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 intergovernmental 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 intergovernmental 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;

ITEM (xii) (“national Office”):

See Articles 2(xiii)(xiv)(xv); 13(2)(c); 15(5)(a)(b); 16(1), (3)(a)(b)(e); 17(3)(b); 22(1); 25(1)(b); 27(4); 29(4); 30(2)(a)(b), (4); 34(3)(b)(c); 37(4)(b); 40(1); 49; 50(5)(b); 55(5); 56(2)(b); 58(3)(a)(ii); 63(1)(a)(iii); 64(2)(a)(ii), (3)(c)(ii).

See Rules 4.10(a)(iv); 19.1(a), (b), (c), 19.3(a); 29.1(b); 31.1(a); 34.1(c)(vi); 36.1(i); 48.5; 55.1(a); 58.1(c); 59.1, 59.2; 62.1(a), (b); 63.1(i); 69.1(c); 72.1(a); 75.2(a); 79.1; 80.5, 80.6, 80.7(a); 82.1(b), 82.2(b); 83.2(a); 87.2(a); 92.2(e), 92.3.

ITEM (xiii) (“designated Office”):

See Articles 4(1)(v); 7(2)(ii); 13(1), (2)(a)(b); 20(1)(a), (3); 22(1); 23(1), (2); 24(2); 25(1)(a), (2)(a); 26; 27(2), (3), (7); 28(1), (4); 30(2)(c).

See Rules 4.10(c); 6.2(b); 11.15; 17.1(c), 17.2(a); 18.5; 24.2(a); 29.1(a)(ii), 29.2; 32.1(d); 40.2(c); 44.3(b), (c); 47.1(c), (d), (e), 47.3; 48.3(b); 49.2; 51, 51.4; 52; 86.1(iv); 95.1(a).

ITEM (xiv) (“elected Office”):

See Articles 31(7); 36(3)(a)(b); 37(3)(b); 38(1); 39(1)(a), (3); 40(2); 41(1), (4); 42.

See Rules 54.4; 61.2; 61.2(c); 68.3(c); 71.2(b), (c); 72.2, 72.3; 75.2, 75.2(b); 76.2, 76.4; 78, 78.3; 86.1(iv); 95.1(a).

ITEM (xv) (“receiving Office”):

See Articles 10; 11(1), (1)(i), (2)(a)(b); 12(1); 14(1)(a)(b), (2), (3)(a)(b), (4); 16(2); 25(1)(a)(b), (2)(a); 27(7); 30(2)(b), (3); 31(2)(a); 32(2); 56(5).

See Rules 2.3; 3.2, 3.3(b); 4.10(d), 4.17(b); 9.2; 11.1(b), 11.5, 11.6(d); 12.1; 14.1(a), (b); 15.3(a), (b), 15.4(a), 15.5(b); 16.1(b); 17.1(a); 18.1(a), 18.2(a), 18.5; 19.1(b), (c), 19.3(a); 20.1(a), 20.2(a), (b), 20.3, 20.4(a), 20.5(a), (c), 20.6(a), (b), 20.7, 20.8, 20.9; 21.1(a), (b), (c); 22.1(a), (b), (c), 22.2(a), (b), (c), (d), (e), 22.4, 22.5; 23.1(a), (b), (c); 24.2(a), (b); 25.1; 26.1(a), (b), 26.2, 26.4(a), (b), (c), (d), 26.5(a), (b), 26.6(a); 28.1(a), (b); 29.1(a), (a)(i)(ii)(iii), (b), 29.3, 29.4; 32.1(c), (d); 35.1, 35.2(a), (b); 37.1, 37.2; 38.1, 38.2(a); 43.1; 53.1(b), 53.6; 54.4; 61.2(b); 70.3; 79.1; 86.1(ii); 89.2(a); 90.2(d), 90.3(b); 91.1(e)(i), (g)(i); 93.1.

ITEM (xvi) (“Union”):

See Articles 1(1), (2)(xvii); 53(2)(a)(i)(iv)(vi)(vii)(viii)(x); 54(6)(a)(ii)(v); 55(1), (2), (3); 57(1)(a)(b)(c), (2), (3), (3)(i)(ii), (5)(d)(e), (7)(a).

ITEM (xvii) (“Assembly”):

See Articles 9(2); 16(3)(a)(b)(e); 31(2)(b); 32(2); 47(2)(b); 50(4), (6), (7); 51(1), (5); 53(1)(a), (2)(a)(b), (5)(b), (6)(a), (8), (9), (10), (11)(a)(b)(c), (12); 54(1), (2)(a), (3), (4), (5)(a)(c), (6)(a)(i)(ii)(iv)(v); 55(4), (6), (7)(a); 56(1), (2)(a), (3)(iii), (5), (6)(b), (7), (8); 57(5)(b)(c)(d)(e), (7)(a)(b)(c), (8)(a), (9); 58(2)(a), (4); 60(2); 61(1)(a)(b), (2)(a), (3)(a)(b)(c); 65(1), (2); 67(1)(b).

See Rules 19.1(c); 34.1(e); 54.2(ii), 54.3(a)(ii); 59.2; 81.2(a), (b); 85.1; 86.2(b); 88.1, 88.2, 88.3, 88.4; 89.2(c).

ITEM (xviii) (“Organization”):

See Articles 2(xix)(xx); 53(2)(b), (11)(a)(b); 54(6)(b), (7)(a); 57(1)(b)(c), (2), (7)(c), (8)(a)(b).

(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.

ITEM (xix) (“International Bureau”):

See Articles 12(1), (3); 13(1), (2)(b)(c); 16(3)(b); 17(1), (2)(a); 18(2), (3); 19(1); 21(1), (2)(b), (6); 25(1)(a)(b), (2)(a)(b); 30(1)(a); 31(6)(b); 32(2); 34(1); 36(1), (2)(b), (3)(a); 37(3)(a)(b); 38(1), (2); 49; 50(1), (2); 51(4); 53(2)(a)(iii); 55(1), (2), (4), (5), (7)(a)(b), (8); 57(3)(i)(ii), (4); 59; 63(1)(a)(i)(ii)(iii); 64(3)(c).

See Rules 3.2; 4.10(c), (d); 8.2; 9.2; 11.5; 12.1; 14.1(a); 15.1, 15.3(b); 17.1(a), (c), 17.2(a), (b); 18.4(c), 18.5; 19.3(a), (b); 20.1(a), 20.7(ii)(iv); 22.1(a), (b), (c), 22.2(a), (d), (e), 22.4; 23.1(a), (b), (c); 24.1, 24.2(a), (b); 25.1; 26.4(c); 28.1(a); 29.1(a)(i)(ii)(iv), (b), 29.2, 29.3; 31.1(a), 31.2; 32.1(c), (d); 34.1(b)(iii); 35.1, 35.2(b); 44.1, 44.2(c), 44.3(b), (c); 46.1, 46.2, 46.3, 46.5(b), (c); 47.1(a), (b), (c), 47.2(a); 48.2(a)(vi), (f), (h), 48.3(b), (c), 48.4(a), (b), 48.5, 48.6(a), (b); 49.1(a), (b), (c); 50.1(a), (b), (c), (d); 51.2, 51.4; 54.4; 55.2(a), (d); 57.1, 57.2(a), (b), 57.3(b), (c), 57.5(a), (b); 59.1; 60.1(d), 60.2(a), (b), 60.3; 61.1(a), (c), 61.2(a), (b), 61.3; 62.1(b), 62.2(a), (b); 66.7(a); 69.1(b)(ii); 71.1, 71.2(b), (c); 72.1(b), 72.2, 72.3; 73.1; 75.1(b), 75.2(a), (b), 75.3, 75.4(a), (b); 76.1(a), (b), (c); 77.1(a), (b), (c), (d); 79.1; 80.7(c); 81.3(b); 83.1, 83.2(a), (b); 85.1; 86.1(ii)(iv); 87.1, 87.2(a); 89.1(b); 90.2(d), 90.3(b); 91.1(e)(iv), (g)(i), (h); 92.2(d), (e); 93.2(a), (b); 94.1; 95.1(a), (b).

ITEM (xx) (“Director General”):

See Articles 51(2)(b); 53(2)(a)(iv), (10), (11)(a)(b)(c); 54(6)(a)(ii)(iii)(iv)(v), (7)(a)(b); 55(3), (6), (7)(c); 56(2)(d), (5), (6)(a); 57(7)(c); 58(4); 61(1)(a)(b), (3)(a); 62(2); 64(4)(c), (6)(a)(b); 66(1), (2); 67(1)(b); 68(1), (2), (3), (4); 69.

See Rules 81.1(a), (b), 81.2(a), 81.3(a); 89.2(a), (b), (c).

GENERAL OBSERVATION: Whenever the terms defined in this Article occur in other Articles of the Treaty, reference is made in the notes to these term definitions except that the terms defined in Article 2(vii) and (xvi) to (xx), since they are generally self-explanatory, are referred to only once, namely when they first occur in the Treaty.

NOTES ON CHAPTER I

This Chapter, entitled “International Application and International Search,” contains 28 Articles (Articles 3 to 30).

The Articles are arranged in a sequence which generally follows the chronology of events in the procedure: Articles 3 to 21 deal with what could be called “the international phase,” whereas Articles 22 to 29 deal with what could be called “the national phase.” Article 30 relates to both phases.

The international phase consists of two main features, the international application (Articles 3 to 14) and the international search (Articles 15 to 18), and one necessarily subsequent event (amendment of the claims before the International Bureau, Article 19) and two usually subsequent events (the communication to the designated Offices, Article 20, and the international publication, Article 21).

The national phase concerns what happens in the designated State in connection with the international application, except that the main effect of the international application – namely, that it has the effect of a national application in each designated State – is already mentioned in Article 11 (more precisely in Article 11(3)) in connection with the filing date in order to underline the fact that the said effect occurs simultaneously with the according of the international filing date.

NOTES ON ARTICLE 3

PARAGRAPH (1): “Application” and “international application” are defined in Article 2(i) and (vii), respectively.

PARAGRAPH (2): As to “request,” “description,” “claims,” “drawings” and “abstract,” see Articles 4, 5, 6, 7 and 3(3), respectively. As to “abstract,” see also Rule 8 (The Abstract).

As to the consequences of an incomplete request and the absence of a description and claims, see Articles 11(2)(a) and 14(1)(b). As to drawings referred to but in fact not included, see Article 14(2). As to missing abstracts, see Article 14(1)(a)(iv) and Rules 38 (Missing [or Defective] Abstract) and 44.2 (Title or Abstract). In respect of all elements of the international application, see also Rules 9 (Expressions, Etc., Not To Be Used) and 10 (Terminology and Signs).

(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;

PARAGRAPH (3): –

PARAGRAPH (4) (in general): "Prescribed" means as provided in the Regulations (see Article 58(1)(i)).

PARAGRAPH (4)(i): See Rule 12 (Language of the International Application).

PARAGRAPH (4)(ii): See Rule 11 (Physical Requirements of the International Application).

PARAGRAPH (4)(iii): See Rule 13 (Unity of Invention).

PARAGRAPH (4)(iv): See Rules 14 (The Transmittal Fee), 15 (The International Fee), 16 (The Search Fee). The international fee consists of two parts: the "basic fee" and the "designation fee" (see Rule 15.1). For the consequences of non-payment, see Article 14(3).

NOTES ON ARTICLE 4

PARAGRAPH (1) (in general): As to the form of the request see Rule 3; as to its contents, see Rule 4.

The request must be signed (Rule 4.1(d)) by the applicant (Rule 4.15) but, since an agent may act in lieu of the applicant, the signature may be that of the agent (see Rules 2.1 and 90.2), provided the latter is properly appointed (Rule 90.3).

Once the processing in the designated Office starts, that Office may require that the international application be confirmed by the signature of the applicant if, as filed, it was signed by an agent (Article 27(2)(ii)).

As to the definition of "signature," see Rule 2.3.

PARAGRAPH (1)(i): See Rule 4.2 (Petition). Cf. with Article 11(1)(iii)(a).

PARAGRAPH (1)(ii): The effect of this provision is that all designations must be made in the international application when filed. Contracting States must be designated by their names (Rule 4.9).

If a regional patent is desired, not only this wish but also the names of the designated States for which the regional patent is sought must be indicated (Rule 4.1(b)(iv)). For certain designated or elected States, only the regional patent (and not the national patent) may be available (Article 45(2)).

As to the absence of any designation, see Article 11(1)(iii)(b) and (2).

"National patent," "regional patent," and "national law," are defined in Article 2(iii), (iv), and (x), respectively.

(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.

PARAGRAPH (1)(iii): For the applicant, the “other prescribed data” are his address, nationality and residence (Rule 4.5); for the agent, his address (Rule 4.7). As to the manner of indicating names and addresses, see Rules 4.4 and 4.16.

As to the absence of the name of the applicant, see Article 11(1)(iii)(c) and (2).

As to who may be an applicant, see Articles 9 and 27(3), and Rule 18 (The Applicant). See also Rule 19.2 (Several Applicants).

As to who has the right to practice before International Authorities, see Article 49, and as to the meaning of the word “agent,” see Rule 2.2.

The name of the applicant is one of the elements which can be published by designated Offices (Article 30(2)(b)).

PARAGRAPH (1)(iv): As to the characteristics of the title, see Rule 4.3.

As to the lack of a title, see Article 14(1)(a)(iii) and (b) and Rule 37, the latter dealing also with defective titles.

The title must be repeated at the beginning of the description (Rule 5.1(a)).

As to the international search report and the title, see Rule 44.2(a).

The title is one of the elements which can be published by designated Offices (Article 30(2)(b)).

PARAGRAPH (1)(v): The “other prescribed data” concerning the inventor consist of his address (Rule 4.6). As to the manner of indicating names and addresses, see Rules 4.4 and 4.16.

As to the consequences of failure to indicate the name of the inventor, see paragraph (4). See also Article 22(1), second sentence.

“National application,” “national law,” and “designated Office,” are defined in Article 2(vi), (x), and (xiii), respectively.

PARAGRAPH (2): The fee is the designation fee part of the international fee (Rule 15.1(ii)). The time limit is one year from the priority date (Rule 15.4(b)).

As to the amount, mode of payment, allocation in the case of partial payment, and refund, see Rules 15.2(b), 15.3, 15.5, and 15.6, respectively.

As to the consequences of failure to pay or paying only part of the fee, see Article 14(3).

PARAGRAPH (3): The “other kinds of protection referred to in Article 43” are inventors’ certificates, utility certificates, utility models, patents or certificates of addition, inventors’ certificates of addition, and utility certificates of addition.

“Patent” is defined in Article 2(ix).

PARAGRAPH (4): See the notes under paragraph (1)(v).

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.

NOTES ON ARTICLE 5

SOLE PARAGRAPH: See Rules 5 (The Description), 9 (Expressions, Etc., Not To Be Used), 10 (Terminology and Signs), 11 (Physical Requirements of the International Application).

NOTES ON ARTICLE 6

FIRST AND SECOND SENTENCES: See Rules 6 (The Claims), 9 (Expressions, Etc., Not To Be Used), 10 (Terminology and Signs), 11 (Physical Requirements of the International Application).

The applicant is entitled to one opportunity to amend the claims before the International Bureau (Article 19). The description and the drawings as well as the claims may be amended before the designated Offices (Article 28) and, where the applicant demands international preliminary examination, before the International Preliminary Examining Authority (Article 34(2)(b)), and before the elected Offices (Article 41).

THIRD SENTENCE: Where the description refers to drawings and where the nature of the invention is such that the only practical way to express clearly certain features of the disclosure is through a combination of the description and the drawings, it will be necessary to consider the description in conjunction with the drawings in determining whether the claims are fully supported by the description. They are in such case still fully supported by the description since the drawings necessary to express certain features of the disclosure which cannot as a practical matter be described in words are, in fact, incorporated by reference in the description.

NOTES ON ARTICLE 7

PARAGRAPH (1): As to the physical requirements of drawings, see Rule 11, particularly Rule 11.13 (Special Requirements for Drawings). See also Rules 7 (The Drawings), 9 (Expressions, Etc., Not To Be Used), and 10 (Terminology and Signs).

Inventions in the chemical field are among inventions which may generally be understood without drawings.

PARAGRAPH (2): Inventions in the chemical field frequently do not admit of illustration by drawings. However, flow sheets and diagrams are considered drawings (Rule 7.1).

As to the time limit, see Rule 7.2.

“Designated Office” is defined in Article 2(xiii).

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

NOTES ON ARTICLE 8

PARAGRAPH (1): Consequently, the priority claim may be based on earlier national and international applications (as to the effect of the priority claim in the country in which – by filing of, or designation in, the earlier application – the priority has been established, see paragraph (2)(b)). “Earlier” should be construed according to Article 4 of the Paris Convention, particularly Sections C(2) and C(4). As to the declaration, see Rule 4.10 (Priority Claim). See also Rule 17 (The Priority Document).

“Application” is defined in Article 2(i) and (viii).

PARAGRAPH (2)(a): Article 4 of the Stockholm Act reads as follows:

“A. (1) Any person who has duly filed an application for a patent, or for the registration of a utility model, or of an industrial design, or of a trademark, in one of the countries of the Union, or his successor in title, shall enjoy, for the purpose of filing in the other countries, a right of priority during the periods hereinafter fixed.

(2) Any filing that is equivalent to a regular national filing under the domestic legislation of any country of the Union or under bilateral or multilateral treaties concluded between countries of the Union shall be recognized as giving rise to the right of priority.

(3) By a regular national filing is meant any filing that is adequate to establish the date on which the application was filed in the country concerned, whatever may be the subsequent fate of the application.

B. Consequently, any subsequent filing in any of the other countries of the Union before the expiration of the periods referred to above shall not be invalidated by reason of any acts accomplished in the interval, in particular, another filing, the publication or exploitation of the invention, the putting on sale of copies of the design, or the use of the mark, and such acts cannot give rise to any third-party right or any right of personal possession. Rights acquired by third parties before the date of the first application that serves as the basis for the right of priority are reserved in accordance with the domestic legislation of each country of the Union.

C. (1) The periods of priority referred to above shall be twelve months for patents and utility models, and six months for industrial designs and trademarks.

(2) These periods shall start from the date of filing of the first application; the day of filing shall not be included in the period.

(3) If the last day of the period is an official holiday, or a day when the Office is not open for the filing of applications in the country where protection is claimed, the period shall be extended until the first following working day.

(4) A subsequent application concerning the same subject as a previous first application within the meaning of paragraph (2), above, filed in the same country of the Union, shall be considered as the first application, of which the filing date shall be the starting point of the period of priority, if, at the time of filing the subsequent application, the said previous application has been withdrawn, abandoned, or refused, without having been laid open to public inspection and without leaving any rights outstanding, and if it has not yet served as a basis for claiming a right of priority. The previous application may not thereafter serve as a basis for claiming a right of priority.

D. (1) Any person desiring to take advantage of the priority of a previous filing shall be required to make a declaration indicating the date of such filing and the country in which it was made. Each country shall determine the latest date on which such declaration must be made.

(2) These particulars shall be mentioned in the publications issued by the competent authority, and in particular in the patents and the specifications relating thereto.

(3) The countries of the Union may require any person making a declaration of priority to produce a copy of the application (description, drawings, etc.) previously filed. The copy, certified as correct by the authority which received such application, shall not require any authentication, and may in any case be filed, without fee, at any time within three months of the filing of the subsequent application. They may require it to be accompanied by a certificate from the same authority showing the date of filing, and by a translation.

(4) No other formalities may be required for the declaration of priority at the time of filing the application. Each country of the Union shall determine the consequences of failure to comply with the formalities prescribed by this Article, but such consequences shall in no case go beyond the loss of the right of priority.

(5) Subsequently, further proof may be required.

Any person who avails himself of the priority of a previous application shall be required to specify the number of that application; this number shall be published as provided for by paragraph (2), above.

E. (1) Where an industrial design is filed in a country by virtue of a right of priority based on the filing of a utility model, the period of priority shall be the same as that fixed for industrial designs.

(2) Furthermore, it is permissible to file a utility model in a country by virtue of a right of priority based on the filing of a patent application, and vice versa.

F. No country of the Union may refuse a priority or a patent application on the ground that the applicant claims

(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.

multiple priorities, even if they originate in different countries, or on the ground that an application claiming one or more priorities contains one or more elements that were not included in the application or applications whose priority is claimed, provided that, in both cases, there is unity of invention within the meaning of the law of the country.

With respect to the elements not included in the application or applications whose priority is claimed, the filing of the subsequent application shall give rise to a right of priority under ordinary conditions.

G. (1) If the examination reveals that an application for a patent contains more than one invention, the applicant may divide the application into a certain number of divisional applications and preserve as the date of each the date of the initial application and the benefit of the right of priority, if any.

(2) The applicant may also, on his own initiative, divide a patent application and preserve as the date of each divisional application the date of the initial application and the benefit of the right of priority, if any. Each country of the Union shall have the right to determine the conditions under which such division shall be authorized.

H. Priority may not be refused on the ground that certain elements of the invention for which priority is claimed do not appear among the claims formulated in the application in the country of origin, provided that the application documents as a whole specifically disclose such elements.

I. (1) Applications for inventors' certificates filed in a country in which applicants have the right to apply at their own option either for a patent or for an inventor's certificate shall give rise to the right of priority provided for by this Article, under the same conditions and with the same effects as applications for patents.

(2) In a country in which applicants have the right to apply at their own option either for a patent or for an inventor's certificate, an applicant for an inventor's

certificate shall, in accordance with the provisions of this Article relating to patent applications, enjoy a right of priority based on an application for a patent, a utility model, or an inventor's certificate."

PARAGRAPH (2)(b): "Application" is defined in Article 2(i) and (viii) whereas "national application" and "national law" are defined in Article 2(vi) and (x), respectively.

NOTES ON ARTICLE 9

PARAGRAPH (1): As to "resident" and "national," see the notes concerning paragraph (3).

As to the question of which receiving Office is competent according to the residence or nationality of the applicant or applicants, see Rule 19.

PARAGRAPH (2): A majority of two-thirds is required for the decision of the Assembly (Article 53(6)).

As to the question which Office is competent to act as a receiving Office, see Rule 19.1(c) and 19.2.

"Assembly" is defined in Article 2(xvii).

PARAGRAPH (3): See Rules 18.1 (Residence), 18.2 (Nationality), 18.3 (Several Applicants: Same for All Designated States), 18.4 (Several Applicants: Different for Different Designated States), and 18.5 (Change in the Person or Name of the Applicant). See also Rule 4.8 (Representation of Several Applicants Not Having a Common Agent).

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,

NOTES ON ARTICLE 10

SOLE PARAGRAPH: As to the question which is the “prescribed” receiving Office, see Rules 19.1 and 19.2. The duties of the receiving Office may be delegated (see Rules 19.1(b) and 19.3).

Checking is for possible failure to meet requirements under Articles 11(1) or for possible defects under Article 14(1)(a), (2) and (3). See Rules 26.1, 26.3 and 27. The receiving Office may note lack of compliance with Rule 9.1 (see Rule 9.2).

Processing includes:

giving a date and a number to the papers received (Rules 20.1 to 20.3);

communication with the applicant if requirements are not met or are unfulfilled or if defects have been discovered (Articles 11(2)(a) and 14(1)(b), (2), and Rule 26), including the fixing of the time limit for corrections (Rule 26.2);

determination whether corrections have been offered and whether they are acceptable and drawing the conclusions (see Rules 20.4 to 20.8, 26.5, 26.6 and 91.1), that is:

- according or denying an international filing date (Article 11(1) or (2)(b); Rules 20.4, 20.5, 20.7);
- declaring, where appropriate, the international application to be considered withdrawn (Article 14(1)(b), (3) and (4));
- changing the accorded international filing date in the case of Article 14(2)(see Rule 20.2(a)(iii));
- ignoring references to drawings in the case of Article 14(2) (see Rule 26.6);
- preparing copies of the international application (Rule 21);
- keeping the home copy (Article 12(1) and Rule 93.1);

- forwarding the record copy (Article 12(1) and Rule 22) and the search copy (Article 12(1) and Rule 23);
 - giving certified copies of the international application to the applicant on request (Rule 20.9).
- “Receiving Office” is defined in Article 2(xv).

NOTES ON ARTICLE 11

PARAGRAPH (1) (in general): See Rule 20 (Receipt of the International Application), which provides, *inter alia*, that the applicant will be promptly notified whether or not an international filing date was accorded to his application (Rule 20.5(c)). Even where no such filing date is accorded the possibility for review by the designated Offices under Article 25 exists. The international fee and the search fee shall be refunded to the applicant if the determination under this paragraph is negative (see Rules 15.6 and 16.2).

“Receiving Office” is defined in Article 2(xv).

PARAGRAPH (1)(i): As to nationality and residence, see Article 9 and Rule 18. As to the receiving Office, see Article 10 and Rule 19.

PARAGRAPH (1)(ii): See Article 3(4)(i) and Rule 12 (Language of the International Application).

PARAGRAPH (1)(iii): The designation of at least one Contracting State is indispensable (see (b)) but otherwise the international filing date will be accorded even if the other elements enumerated in this provision do not comply with the requirements of form and contents provided for in the Treaty and the Regulations. Thus:

as to (a), it will not matter, in particular, if the petition is not worded as in Rule 4.2, as long as the intent to ask for processing according to the Patent Cooperation Treaty is clear;

- (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.

as to (c), it will not matter, in particular, if the name of the applicant is not indicated as prescribed in Rule 4.4, as long as his identity may be established (Rule 20.4(b));

as to (d) and (e) it will not matter, in particular, if the description does not comply with Article 5 (clarity, and completeness of the description) and Rule 5 (manner of description), or if the claims do not comply with Article 6 (clarity, conciseness, etc., of claims) and Rule 6 (manner of claiming), or if neither the description nor the claims comply with the prescribed physical requirements (Rule 11) or with the requirements of unity of invention (Rule 13). All the receiving Office is allowed to do is to check whether the application contains passages which, on their face, appear to be a description and a claim or claims.

PARAGRAPH (2)(a) and (b): See Rule 20.6 (Invitation to Correct). As to the time available for correction, see Rule 20.6(b). In this connection, see also Rules 20.2 (Receipt on Different Days) and 20.3 (Corrected International Application).

“Receiving Office” is defined in Article 2(xv).

PARAGRAPH (3): The said effect is acquired if the international filing date has been accorded under paragraph (1). Whereas the international filing date cannot be taken back, the effect described in paragraph (3) – that is, that the international application has the effect of a national application in each designated State – depends on whether the provisions of the Treaty and the Regulations have been complied with. If it is later discovered by the national Office or the courts of the designated State that the said provisions have not been complied with, there will be no such effect in that State (see, however, the safeguards contained in Article 26).

The effect described in paragraph (3) will or may cease – that is, be lost *ex nunc* – in the following situations:

it will cease in all designated States if the international application is withdrawn by the applicant, and it will cease in any particular designated State whose designation is withdrawn by the applicant (see Article 24(1)(i));

it will cease in any designated State if the international application or the designation must be “considered withdrawn” (see three paragraphs further on) unless a review

to which the applicant has a right – in that State maintains such effect (see Article 25);

it will cease in any designated State if the applicant fails to furnish the required copy of the international application and its translation or to pay the required national fee to the designated Office or, in certain cases, the name and other prescribed data of the inventor, within the prescribed time limit (generally 20 months from the priority date) (see Article 24(1)(iii)).

Any designated State may, even in the above cases, maintain the effect under Article 11(3) (see Article 24(2)).

An international application will be “considered withdrawn” if the *International Bureau* finds that the record copy was received after the expiration of 13 or 14 months from the priority date (see Article 12(3) and Rule 22) or if the *receiving Office* – after having accorded an international filing date – finds certain defects, that is to say: finds, within 6 months, defects which should have prevented the according of the international filing date (see Article 14(4) and Rule 30.1); finds that the prescribed fees were not paid in time (see Article 14(3)(a)); or finds that, notwithstanding an invitation to correct them, the following defects were not corrected (Article 14(1)(b)): lack of signature, defects in the indications concerning the applicant, lack of title of the invention, lack of abstract, lack of compliance with the requirements of physical presentation preventing reasonably uniform international publication (Article 14(1)(a) and Rule 26.3). A designation will be “considered withdrawn” in the case of Article 14(3)(b).

The absence of an international search report will not cause the loss of the effect provided for in paragraph (3). However, the national law of any designated State may provide that, if part of the international application was not searched because of the applicant’s attitude (he failed to pay additional search fees), that part may be considered withdrawn unless a special fee is paid by the applicant to the designated Office (Article 17(3)).

Article 64(4) provides for the possibility, under certain conditions, of considering a date other than the international filing date for prior art purposes.

“National application” is defined in Article 2(vi).

(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.

PARAGRAPH (4): The applicable provision of the Stockholm Act of the Paris Convention is Article 4A(2), which provides that “Any filing that is equivalent to a regular national filing under... multilateral treaties concluded between countries of the Union shall be recognized as giving rise to the right of priority.” The Patent Cooperation Treaty is a multilateral treaty covered by the quoted provision.

Thus, the significance of paragraph (4) is that an international application may be the basis of a priority claim in: (i) any Paris Union country not party to the Patent Cooperation Treaty, and (ii) any country party to that Treaty which the applicant did not designate.

NOTES ON ARTICLE 12

PARAGRAPH (1): Depending on the prescriptions of the receiving Office, the international application must be filed in one, two or three copies (Rule 11.1). If filing of one or two copies is required, the other two copies or one copy will be prepared by the receiving Office (Rule 21).

As to the transmittal of the record copy, see Rule 22: transmittal may be direct (from the receiving Office to the International Bureau) or, where the receiving Office so provides, indirect (from the receiving Office to the applicant and from the applicant to the International Bureau). See also Rule 24 (Receipt of the Record Copy by the International Bureau).

As to the transmittal of the search copy, see Rule 23. See also Rule 25 (Receipt of the Search Copy by the International Searching Authority).

As to the question of which International Searching Authority is competent, see Article 16(2) and Rule 35.

“Receiving Office” and “International Bureau” are defined in Article 2(xv) and (xix), respectively.

PARAGRAPH (2): –

PARAGRAPH (3): The time limit is prescribed in Rule 22.3. See also Rule 24 (Receipt of the Record Copy by the International Bureau).

NOTES ON ARTICLE 13

PARAGRAPH (1): Since the international application has the effect of a national application in the designated State (see Article 11(3)), it seems to be justified that a copy thereof be made available to the designated Office as soon as possible. Although the designated Office will be obliged to delay the processing of the application in question (see Article 23), it may need a copy for processing *other* applications.

It is to be noted that this Article gives the right to receive a copy, and *not* to receive a translation, of the international application.

It is to be noted further that the designation fee part of the international fee is higher for designated States which ask for copies under Article 13 than for designated States which do not ask for such copies (see Rule 15.2(b)(i) and (ii)).

As to procedure, see Rules 31.1(a) and 31.2.

“Priority date” and “designated Office” are defined in Article 2(xi) and (xiii).

(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.

PARAGRAPH (2)(a): "Designated Office" is defined in Article 2(xiii).

PARAGRAPH (2)(b): See Rules 31.1(b) and 31.2.

"Designated Office" is defined in Article 2(xiii).

PARAGRAPH (2)(c): Any national Office has also the right to receive copies of all publications of the International Bureau relating to the Treaty, see Rule 87.2.

"National Office" is defined in Article 2(xii).

NOTES ON ARTICLE 14

ARTICLE 14 (in general): The receiving Office does not check whether the international application complies with the requirements of the Treaty and the Regulations except with regard to the requirements under Article 11(1) and to the possible defects referred to in paragraphs (1) to (3) of the Article under consideration.

Only the defects enumerated in paragraph (1) call for an invitation to correct. Even if they are not corrected, the international filing date is not lost.

The lack of a stated drawing does not give rise to an invitation to file it (although the applicant's attention is called to the absence of the drawing; see paragraph (2)), and the lack of payment of the international fee payable on filing and the search fee does not require that the receiving Office invite the applicant to pay (see paragraph (3)), although it may allow him to pay the basic fee part of the international fee and the search fee later but not later than one month (see Rules 15.4(a) and 16.1(b)), and the designation fee part of the international fee later but not later than one year from the priority date (Rule 15.4(b)).

"Receiving Office" is defined in Article 2(xv).

PARAGRAPH (1)(a)(i): See the notes concerning Article 4(1) (in general).

PARAGRAPH (1)(a)(ii): See the notes concerning Article 4(1)(iii).

PARAGRAPH (1)(a)(iii): See the notes concerning Article 4(1)(iv).

PARAGRAPH (1)(a)(iv): See the notes concerning Article 3(2).

PARAGRAPH (1)(a)(v): See Rule 11 (Physical Requirements of the International Application).

PARAGRAPH (1)(b): See Rule 26 (Checking and Correcting Certain Elements of the International Application). Certain defects may be noted by the International Searching Authority or the International Bureau, but all they can do is to call them to the attention of the receiving Office, which is sovereign in deciding whether to ask for correction and whether to accept the correction offered (see Rule 28). As to the procedure where the correction is not made or not accepted, see Rule 29.1.

Even where the receiving Office declares that the international application is considered withdrawn, review by the designated Offices may be asked for by the applicant (Article 25).

(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.

PARAGRAPH (2): The prescribed time limit is 30 days from the date on which the incomplete papers were filed (Rules 20.2(a)(iii) and 26.6(b)). As to an indication in the application of drawings referred to but not included, see Rule 26.6(a).

PARAGRAPH (3)(a): As to the meaning of “fees prescribed under Article 3(4)(iv),” see Rule 27.1(a), and of “the fee prescribed under Article 4(2)(iv),” see Rule 27.1(b). The former means the transmittal fee (Rule 14), the basic fee part of the international fee (Rule 15.1(i)), and the search fee (Rule 16), whereas the latter means the designation fee part of the international fee (Rule 15.1(ii)). As to the procedure where the international application is considered withdrawn, see Rule 29.1(a).

Even where the receiving Office declares that the international application is considered withdrawn, review by the designated Offices may be asked for by the applicant (Article 25).

PARAGRAPH (3)(b): The “fee prescribed under Article 4(2)” means the designation fee part of the international fee (Rule 15.1(ii)). As to the procedure where the designation of any given State is considered withdrawn, see Rule 29.1(b).

Even where the receiving Office declares that the international application is considered withdrawn, review by the designated Offices may be asked for by the applicant (Article 25).

PARAGRAPH (3)(a) and (b): As to the meaning of “fees” see Rule 27. As to the due date of the transmittal fee, see Rule 14.1(b), of the basic fee part of the international fee, see Rule 15.4(a), of the designation fee part of the international fee, see Rule 15.4(b), of the search fee, see Rule 16.1(b).

PARAGRAPH (4): As to the procedure where the international application is considered withdrawn, see Rule 29.1(a). The International Bureau or the International Searching Authority may call relevant facts to the attention of the receiving Office (see Rule 29.3). The receiving Office must notify the applicant of its intent to issue declaration (Rule 29.4). The prescribed time limit is 6 months from the international filing date (Rule 30).

Even where the receiving Office declares that the international application is considered withdrawn, review by the designated Office may be asked for by the applicant (Article 25).

GENERAL OBSERVATIONS: As to errors in transcription, see Rule 91.1 (Obvious Errors of Transcription; Rectification).

As to written communications, see Rules 92.1 (Correspondence: Need for Letter and for Signature), 92.2 (Correspondence: Languages), 92.3 (Correspondence: Mailings by National Offices and Intergovernmental Organizations).

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 prescribed 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.

NOTES ON ARTICLE 15

PARAGRAPHS (1) and (2): See Rules 33.1 (Relevant Prior Art for the International Search) and 33.2 (Fields to be Covered by the International Search).

PARAGRAPH (3): See Rule 33.3 (Orientation of the International Search).

PARAGRAPH (4): See Rule 34 (Minimum Documentation).

PARAGRAPH (5)(a): See Rules 4.11 (The Request (Contents): Reference to Earlier International or International-Type Search) and 41.1 (The International-Type Search: Obligation to Use Results; Refund of Fee).

"National application," "national law," and "national Office" are defined in Article 2(vi), (x) and (xii), respectively.

PARAGRAPH (5)(b): "National application," "national law," and "national Office," are defined in Article 2(vi), (x) and (xii), respectively.

PARAGRAPH (5)(c): As to the question which International Searching Authority is competent, see Article 16(2).

The language prescribed for international applications results from Rule 12.

As to the form prescribed for international applications, see Articles 3 to 8 and the Rules cited in the notes referring to those Articles, particularly Rules 3 to 13.

As to which International Searching Authority is competent, see Rule 35.

"National application" is defined in Article 2(vi).

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 organization 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.

NOTES ON ARTICLE 16

PARAGRAPH (1): The International Patent Institute is an intergovernmental organization, established in 1947, with its seat in The Hague (Netherlands), and having (in 1970) eight member States (Belgium, France, Luxembourg, Monaco, Netherlands, Switzerland, Turkey, United Kingdom).

“Application” is defined in Article 2(i) and (viii), whereas “national Office” is defined in Article 2(xii).

PARAGRAPH (2): As to the question which Authority is, or which Authorities are, competent, see Rules 35.1 and 5.2.

“Receiving Office” is defined in Article 2(xv).

PARAGRAPH (3)(a): See Article 53(2)(a)(ii) and (6).

“National Office” is defined in Article 2(xii).

All International Searching Authorities have the right to receive copies of all publications of the International Bureau relating to the Treaty, see Rule 87.1.

PARAGRAPH (3)(b): See Article 53(2)(a)(ii) and (6).

“National Office” is defined in Article 2(xii).

As to some conditions to be provided for in the agreement, see Rules 16.3, 41.1 and 44.3(b).

PARAGRAPH (3)(c): See Rule 36.1 (Minimum Requirements for International Searching Authorities: Definition of Minimum Requirements).

PARAGRAPH (3)(d): Extension is decided by the Assembly (see also paragraph (3)(e) of this Article).

(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.

PARAGRAPH (3)(e): "National Office" is defined in Article 2(xii).

NOTES ON ARTICLE 17

PARAGRAPH (1): See, in particular, paragraphs (2) and (3), and Article 18 (The International Search Report) and Rules 25 (Receipt of the Search Copy by the International Searching Authority), 37 (Missing or Defective Title); 38 (Missing [or Defective] Abstract), 42 (Time Limit for International Search), 43 (The International Search Report), 44 (Transmittal of the International Search Report, Etc.), 45 (Translation of the International Search Report), and 91 (Obvious Errors of Transcription).

PARAGRAPH (2)(a)(i): As to the subject matter in question, see Rule 39.

PARAGRAPH (2)(a)(ii): As to the requirements for the description, claims, and drawings, see Articles 5, 6, 7, and the Rules cited thereunder.

PARAGRAPH (2)(a), final phrase: The declaration does not affect either the international filing date or the effect under

Article 11(3). The international application will be communicated to the designated Offices (Article 20(1)(a)) and will be published (Article 21) albeit with the declaration rather than an international search report (Rules 48.2(a)(v), 48.2(c), and 48.3(c)). The acts referred to in Article 22(1) will have to be performed within 2 months from the notification of the declaration to the applicant (Article 22(2)), unless a later time limit is fixed in the national law (Article 22(3)). Some other procedural matters relating to the declaration are found in Rules 62.1(b) and 69.1(b)(iv).

PARAGRAPH (2)(b): In other words, in the case of partial search, there will be an international search report and no "declaration" under paragraph (2)(a), and none of the consequences of such a declaration will apply.

(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.

PARAGRAPH (3)(a): The concept of unity of invention is defined in Rule 13, and the procedure before the International Searching Authority in case of lack of unity of invention is governed by Rule 40. See Rule 40.3, for the prescribed time limit for payment of the additional fees. The additional fees may be paid under protest (see Rule 40.2(c)). There is no possibility of dividing the international application in the international phase.

It goes without saying that any designated Office or the courts of any designated State may disagree with the interpretation that the International Searching Authority gives to Rule 13 in any given case. Consequently, for example:

(i) The International Searching Authority has asked for additional fees: the designated Office or the courts of the designated State may still consider that there is unity of invention, even if the applicant has complied with the invitation of the Authority.

(ii) The said Authority has asked for X number of additional fees: the designated Office may still ask for a division of the application into Y number of parts, even if the applicant has complied with the invitation of the Authority.

(iii) The said Authority has not asked for additional fees: the designated Office or the courts of the designated

State may still find that there is no unity of invention, with the consequences which its national law provides for such cases.

PARAGRAPH (3)(b): The consequences provided for in this paragraph are the only consequences of not complying with the invitation issued under paragraph (3)(a).

“National law” and “national Office” are defined in Article 2(x) and (xii), respectively.

NOTES ON ARTICLE 18

PARAGRAPH (1): See Rules 42 (Time Limit for International Search) and 43 (The International Search Report).

PARAGRAPH (2): See Rule 44 (Transmittal of the International Search Report, Etc.). See Article 20(3), as to the transmittal of copies of cited documents to the designated Offices and to the applicant.

PARAGRAPH (3): As to the language of the translation, see Rule 45.1.

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).

NOTES ON ARTICLE 19

PARAGRAPH (1): See Rule 46 (Amendment of Claims Before the International Bureau). The time limit is prescribed in Rule 46.1. The statement is governed by Rule 46.4.

Publication of the amendments of the claims or a statement are governed by Rules 48.2(f) and 48.2(h). The statement is considered to be a part of the international application, see Rules 49.3 and 76.3. Some other procedural matters relating to amendment of the claims are to be found in Rules 62.2(a), 62.2(b), 69.1(b)(i), 69.1(b)(ii) and 69.1(c).

PARAGRAPHS (2) and (3): The International Bureau is not empowered to check whether the amendments stay within the limits prescribed in paragraph (2). Only the designated Office or the competent courts may pass judgment on whether the amendments go beyond the disclosure as filed and whether this is permissible under its national law.

“National law” is defined in Article 2(x).

NOTES ON ARTICLE 20

PARAGRAPH (1)(a): See Rule 47 (Communication to Designated Offices).

“Designated Office” is defined in Article 2(xiii).

PARAGRAPH (1)(b): See Rule 45 (Translation of the International Search Report).

PARAGRAPH (2): Article 19(1) deals with the amendment of the claims before the International Bureau.

(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.

PARAGRAPH (3): See Rule 44.3 (Copies of Cited Documents).

“Designated Office” is defined in Article 2(xiii).

NOTES ON ARTICLE 21

PARAGRAPH (1): The details are governed by paragraphs (1) to (4). Exceptions may follow from paragraph (5) or Article 64(3). Certain expressions or drawings may be omitted from the publication (see paragraph (6)).

PARAGRAPH (2)(a): Paragraph (2)(b) provides for earlier international publication on the applicant’s request. Article 64(3) deals with the situation in which only such States have been designated as have declared that international publication is not required.

“Priority date” is defined in Article 2(xi).

PARAGRAPH (2)(b): As to earlier publication on the applicant’s request, see Rule 48.2(g) and 48.4.

PARAGRAPH (3): See Rules 48.2(a)(v) and (g).

PARAGRAPH (4): See Rule 48 (International Publication), particularly Rule 48.1 (Form), 48.2 (Contents), and 48.3 (Language).

PARAGRAPH (5): As to the withdrawal of the international application, see Rule 32. As to the cases in which an international application is considered withdrawn, see Articles 12(3), 14(1)(b), 14(3)(a) and 14(4).

As to the procedure in cases where the withdrawal arrives too late to prevent publication, see Rule 48.6(a) and (c).

PARAGRAPH (6): See Rule 9 (Expressions, Etc. Not To Be Used).

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

(2) Notwithstanding the provisions of paragraph (1), 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 two months from the date of the notification sent to the applicant of the said declaration.

(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.

NOTES ON ARTICLE 22

PARAGRAPH (1): See Rule 49 (Languages of Translations and Amounts of Fees under Article 22(1) and (2)).

As to the request, see Article 4.

The time limits for performing these acts also apply to the furnishing of the translations of the protest and the decision (Rule 40.2(c)).

As to the publication of any information on the question whether the requirements provided for under this Article have been complied with, see Rule 86.1 (The Gazette: Contents).

“National application,” “national law,” “priority date,” “national Office,” and “designated Office” are defined in Article 2(vi), (x), (xi), (xii) and (xiii), respectively.

PARAGRAPH (2): The declaration under Article 17(2)(a) is made if the subject matter is not required to be searched and is not searched, or if the international application is “unclear” to the extent that no meaningful search can be carried out.

PARAGRAPH (3): See Rule 50.1 (Faculty Under Article 22(3): Exercise of Faculty). As to notification of applicant of applicable time limits in different designated Offices, see Rule 24.2(a).

“National law” is defined in Article 2(x).

NOTES ON ARTICLE 23

PARAGRAPH (1): The “applicable time limit” is generally 20 months from the priority date Article 22(1). But it may be less (when the International Searching Authority refuses to establish an international search report; see Article 22(2)), or more (when the designated State so allows; see Article 22(3)). See also Rules 6.5 (The Claims: Utility Models) and 13.5 (Unity of Invention: Utility Models).

“Designated Office” is defined in Article 2(xiii).

(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).

PARAGRAPH (2): The applicant would address such a request direct to the designated Office. As to submission of “the priority document” to the International Bureau by applicant making express request, see Rule 17.1(a).

“Designated Office” is defined in Article 2(xiii).

NOTES ON ARTICLE 24

PARAGRAPH (1), introductory sentence: The effect provided for in Article 11(3) is, in essence, that the international application has the effect of a national application in the designated State. Article 25 provides, in essence, that the applicant may ask the designated Office to review any finding of the receiving Office or the International Bureau that the international application is considered withdrawn. “Cease” means ceasing *ex nunc*, that is, from the date on which the events described in cases (i) to (iii) occur. This follows also from the word “maintain” in paragraph (2).

“National application” is defined in Article 2(vi).

PARAGRAPH (1)(i): See Rule 32 (Withdrawal of the International Application or of Designations).

PARAGRAPH (1)(ii): Article 12(3) deals with the case where the record copy reaches the International Bureau after the expiration of the prescribed time limit (13 or 14 months from the priority date; see Rule 22.3). Article 14(1)(b) deals with the case where the applicant fails to correct certain defects. Article 14(3)(a) deals with the case where the fees are not paid in time. Article 14(4) deals with the case where the receiving Office finds defects which should have prevented it from according an international filing date. Article 14(3)(b) deals with the case where the designation fee part of the international fee is not paid in time in respect of any given designated State.

PARAGRAPH (1)(iii): The acts that may have to be performed under Article 22 are: the furnishing of a copy of the international application, the furnishing of a translation of such application, the payment of the national fee, and the furnishing of the name and other prescribed data concerning the inventor. As to the “applicable time limit,” see the note relating to Article 23(1).

Where the effect of the international application ceases by virtue of this paragraph, the designated Office notifies the International Bureau (Rule 29.2) and the International Bureau publishes the essence of such a notification in the Gazette and in certain cases also in the pamphlet (Rule 48.6(b)).

PARAGRAPH (2): The effect provided for in Article 11(3) is, in essence, that the international application has the effect of a national application in the designated State. Article 25(2) obligates the designated Offices to review, on the applicant’s request, refusals to accord an international filing date, findings to the effect that the record copy has arrived too late, and declarations that – because of certain defects left uncorrected – the international application is considered withdrawn.

Where the effect of the international application is maintained, the designated Office notifies the International Bureau (Rule 29.2) and the International Bureau publishes the essence of such a notification in the Gazette and in certain cases also in the pamphlet (Rule 48.6(b)).

“Designated Office” is defined in Article 2(xiii).

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.

NOTES ON ARTICLE 25

PARAGRAPH (1)(a): The receiving Office refuses to accord an international filing date to an application failing to meet the requirements referred to in Article 11(1), or declares that the international application is considered withdrawn in the case of defects referred to in Article 14(1)(a) remaining uncorrected, or where the prescribed fees are not paid (Article 14(3)(a)), or where it discovers defects which should have prevented the according of an international filing date (Article 14(4)).

The finding under Article 12(3) is that the record copy of the international application has not been received by the International Bureau within the prescribed time limit (which time limit, under Rule 22.3, is either 13 or 14 months from the "priority date" (defined in Article 2(xi)).

Where the request is based upon the refusal to accord an international filing date, a copy of the notice referred to in Rule 20.7(i) is required (Rule 51.2). As to the obligation of the receiving Office to send a copy of papers purporting to be an international application to the International Bureau, see Rule 20.7(iv).

"Designated Office" and "receiving Office" are defined in Article 2(xiii) and (xv), respectively.

PARAGRAPH (1)(b): The only case in which the receiving Office declares that the designation of any given State is

considered withdrawn is the case in which the designation fee part of the international fee has not been paid in time in respect of that State (see Article 14(3)(b)).

"National Office" and "receiving Office" are defined in Article 2(xii) and (xv), respectively.

PARAGRAPH (1)(c): As to the time limit, see Rule 51.1.

PARAGRAPH (2)(a): The time limit is fixed in Rule 51.3. Where the designated Office finds that the refusal, declaration, or finding was not justified, it notifies the International Bureau accordingly (see Rule 51.4).

"Designated Office" and "receiving Office" are defined in Article 2(xiii) and (xv), respectively.

(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 applicant, 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.

PARAGRAPH (2)(b): The time limit prescribed under Article 12(3) is 13 or 14 months from the priority date (see Rule 22.3). Article 48(2) obligates any Contracting State to excuse, for reasons admitted under its national law, any delay in meeting any time limit and allows any Contracting State to excuse, for other reasons, any delay in meeting any time limit.

NOTES ON ARTICLE 26

SOLE PARAGRAPH: Since it may sometimes be difficult to maintain that a situation (in particular, a defect), within the terms of the Treaty, is the “same” as a situation within the terms of the national law of the designated State, the Article also speaks of “comparable” situations. This means that the opportunity to correct must be given also when the *kind* of defect (according to the Treaty) is correctable according to the national law. For example, if the national law of the designated State allows that in certain cases defects in the description may be corrected and the international application does in fact suffer from a defect in the description which is a defect under the Treaty but is not contemplated in the national law, the designated Office will have to allow the correction of the defect during the national processing of the application.

“National application,” “national law” and “designated Office” are defined in Article 2(vi), (x) and (xiii), respectively.

NOTES ON ARTICLE 27

PARAGRAPHS (1) to (8): Although inserted, for reasons of convenience, in Chapter I, Article 27 applies not only to designated States but also to elected States, since every elected State is *also* a designated State (see Article 31(4)(a), third sentence: “Election may relate only to Contracting States already designated under Article 4.”).

“National application,” “national law,” and “designated Office” are defined in Article 2(vi), (x) and (xiii), respectively.

PARAGRAPH (1): The requirements relating to form and contents are principally provided for in Articles 3 (The International Application), 4 (The Request), 5 (The Description), 6 (The Claims), 7 (The Drawings), and 8 (Claiming Priority), and the Rules pertaining to these Articles (mainly Rules 3 to 13). The words “form or contents” are used merely to emphasize something that could go without saying, namely, that requirements of substantive patent law (criteria of patentability, etc.) are not meant.

(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 viewpoint 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.

PARAGRAPH (2), introductory phrase: Article 7(2) allows any designated Office to require that the applicant file drawings which are not necessary for the understanding of the invention but which, because the nature of the invention admits of illustration by drawings, may be useful (so – called “useful but – not – necessary drawings”).

PARAGRAPH (2)(i): For example, the director of the corporation, where the applicant is a corporation.

PARAGRAPH (2)(ii): The allegations or statements to be proved may relate to the date on which the invention was made, first used or published; to the fact that the invention is usable or operational for certain purposes; to the identity of the inventor; to the right of the applicant to file; etc. The documents supporting such allegations may be affidavits (oaths expressed in writing, with the signature legalized or certified), contracts, laboratory notes, etc. The signature required for “confirmation” (or, according to the United States of America terminology, “ratification”) may be required to be placed on the copy of the international application communicated under Article 20(1)(a) or furnished under Article 22(1) or on a separate document referring to the application.

PARAGRAPH (3): Under the national laws of most States, any owner of an invention may file an application but under the national laws of some States (for example, the United States) only the inventor may file an application. Thus, for example, the United States of America Patent Office could,

for its own purposes, reject the international application if it was filed by a person other than the inventor. It is to be noted that different applicants for different designated States may be indicated in the international application (see Article 9(3) and Rule 18.4) and that this is so mainly to make it possible for the international application to satisfy differences in national laws on the question who is qualified to file. Information on the national laws will be published in the Gazette (Rule 18.4(c)).

PARAGRAPH (4): The last portion (“except where...”) of this paragraph is there to deal with the case where there is a difference of opinion between the applicant and the organs of the designated State on the question which requirement is more favorable.

“National Office” is defined in Article 2(xii).

(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.

PARAGRAPH (5): Prior art is referred to in Articles 15(2) and 33(2) and (3), and is defined in Rules 33 and 64. “Conditions of patentability” (other than requirements as to the form and contents of international applications) include novelty, inventive step (non-obviousness), industrial applicability, certain subject matter (for example, foods and beverages, chemical products, pharmaceutical products, and plant or animal varieties, are not patentable in some countries).

“Application” is defined in Article 2(i) and (viii).

PARAGRAPH (6): “Any substantive condition of patentability” includes, for example, the fact that the invention was not known, used, patented, described or abandoned by certain persons within certain time limits and in certain countries. It also includes, for example, the question whether the patent should go to the person who was the first to apply for protection or the first to invent, or whether a certain combination of these circumstances should obtain.

PARAGRAPH (7): An agent having the right to practice before the receiving Office shall be entitled to practice before the International Bureau, and the competent International Searching and Preliminary Examining Authority (Article 49). However, these Authorities may require proof of the right to practice (see Rule 83.1). In respect of any particular international application, an agent having the right to practice before the receiving Office does not consequently have the right to practice before the designated Office. Once processing starts in a designated Office, its national law determines who has this right.

“Receiving Office” is defined in Article 2(xv).
PARAGRAPH (8): –

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.

NOTES ON ARTICLE 28

PARAGRAPH (1): The time limit is fixed in Rule 52.1. In the situation under Rule 52.1(a), the right to amend may be exercised after the communication under Rule 47.1 and within one month from the fulfillment of the requirements under Article 22. Where such communication is effected after the time limit under Article 22, the right to amend may be exercised within 4 months after the expiration of that time limit. Amendments may of course be made at any later date, if the national legislation so permits.

“Patent” is defined in Article 2(ii) and (ix), whereas “designated Office” is defined in Article 2(xiii).

PARAGRAPH (2): “National law” is defined in Article 2(x).

PARAGRAPH (3): “National law” is defined in Article 2(x).

PARAGRAPH (4): The right to require a translation is provided for in Article 22(1).

“Designated Office” is defined in Article 2(xiii).

NOTES ON ARTICLE 29

PARAGRAPH (1): The word “compulsory” is primarily intended to exclude the kind of publication which is effected, for example in the United States, on the request of the

applicant, as a “defensive publication,” under the Rules of Practice of the United States of America Patent Office. The word “unexamined” is primarily intended to limit the effects of international publication to the kind of publication which is effected in Germany (Federal Republic) and other countries that provide for the publication of the application either before or after search but before examination.

“National application” and “national law” are defined in Article 2(vi) and (x), respectively.

(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.

PARAGRAPH (2): The provision covers the typical conditions found in the national law of such countries as provide for so-called “provisional protection.”

“National law” is defined in Article 2(x).

PARAGRAPH (3): This provision is intended to establish the same treatment for purely domestic applications and international applications where, according to national law, “provisional protection” starts upon publication and national law does not allow publication earlier than 18 months from the priority date (e.g., Japan). As to the applicant requesting international publication before the expiration of 18 months from the priority date, see Article 21(2)(b).

“National law” and “priority date” are defined in Article 2(x) and (xi), respectively.

PARAGRAPH (4): “National law” and “national Office” are defined in Article 2(x) and (xii), respectively.

NOTES ON ARTICLE 30

PARAGRAPHS (1) to (3): Paragraph (1) deals with the restrictions imposed on the International Bureau and the International Searching Authorities, whereas paragraphs (2) and (3) deal with the restrictions imposed on national Offices.

“Access” is defined in paragraph (4).

“National Office” and “receiving Office” are defined in Article 2(xii) and (xv), respectively.

PARAGRAPH (1)(a): International publication is the publication provided for under Article 21.

(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.

PARAGRAPH (1)(b): Transmittals under Article 13 and communications under Article 20 are to the designated Offices.

PARAGRAPH (2)(a): The date of the international publication is determined under Article 21(2)(a) (18 months from the priority date) or Article 21(2)(b) (earlier, on the applicant's request) or Article 64(3) (later or never when all the designated States have "reserved" under Article 64(3)).

PARAGRAPH (2)(b): The information shall not contain the classification of the invention or the name of the inventor.

PARAGRAPH (2)(c): "Designated Office" is defined in Article 2(xiii).

PARAGRAPH (3): Article 12(1) deals with the transmittal of the record copy to the International Bureau and of the search copy to the competent International Searching Authority.

PARAGRAPH (4): "Priority date" and "national Office" are defined in Article 2(xi) and (xii), respectively.

GENERAL OBSERVATIONS: As to the keeping of records and files, see Rule 93.

As to the furnishing of copies of documents contained in the files, see Rule 94.

As to the availability of translations, see Rule 95.

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.

NOTES ON CHAPTER II

This Chapter, entitled “International Preliminary Examination,” contains 12 Articles (Articles 31 to 42).

The Articles are arranged in a sequence which follows, more or less accurately, the chronology of events in the procedure: Articles 31 to 38 deal with what could be called “the international phase,” whereas Articles 39 to 42 deal with what could be called “the national phase.”

The provisions concerning the international phase consist of provisions on the presentation of the demand for international preliminary examination (Article 31), on the International Preliminary Examining Authority (Article 32), and on the procedure before that Authority (Articles 33, 34, 35). Articles 36 to 38 deal with miscellaneous matters in the international phase.

The national phase (Articles 39 to 42) concerns what happens in the elected State in connection with the international application accompanied by an international preliminary examination report.

International preliminary examination is optional for the applicant: it will be carried out only if he so requests (see Article 31(1)). If he chooses to request international preliminary examination, the provisions of the international phase then, of course, come chronologically *after* the provisions on the international phase in Chapter I and *before* the provisions on the national phase in Chapter I.

The reason for which the Treaty does not follow this chronological order is that Chapter II is optional also for Contracting States. Any such State may avoid being bound by that Chapter if it makes the corresponding reservation (Article 64(1)). The separation of the provisions on international preliminary examination serves the sole purpose of permitting easy identification of the provisions which would not bind any State making the reservation in question.

NOTES ON ARTICLE 31

PARAGRAPH (1): The term “demand” has been chosen to distinguish the petition for international preliminary

examination from the petition which is made under Chapter I and included in the “request” part of the “application.”

The main applicable provisions of the Treaty are Articles 31 to 42, and the Rules issued thereunder (mainly Rules 53 to 78).

See Rule 53 as to the demand, and Rules 60.1 and 60.3 as to certain possible defects in the demand.

PARAGRAPH (2) (in general): See Rule 54 (The Applicant Entitled to Make a Demand). Contracting States having made the reservation under Article 64(1) are not bound by Chapter II.

“Receiving Office” is defined in Article 2(xv).

PARAGRAPH (2)(a): This provision means that, if Contracting State A is bound by Chapter II, whereas Contracting State B is not, and if the applicant is a national of A and a resident of B, and the international application was filed in B, no demand may be made (since it would have to be presented in B but cannot be presented there as B is not bound by Chapter II). Had the international application been filed in A, a demand could have been made. (Under paragraph (2)(b), however, the applicant might make a demand).

As to the competent International Preliminary Examining Authority, see Rule 59.1.

PARAGRAPH (2)(b): As to who are persons entitled to file international applications, see Article 9.

The decision requires a two-thirds majority in the Assembly (see Article 53(6)(a)).

See paragraph (4)(b) as to which Contracting States may be elected where the demand is made under paragraph (2)(b).

As to the competent International Preliminary Examining Authority, see Rule 59.2.

(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.

PARAGRAPH (3): See Rules 53 (The Demand), 55 (Languages), and 60.1 (Defects in the Demand). There is no time limit provided for making a demand or an election since the matter appears to be self-regulatory. Unless the demand or election is made in time for the national processing not to start (see Article 40(1)) before the international preliminary examination is completed, the applicant would usually waste his money if he made a demand or election.

PARAGRAPH (4)(a): See Rule 53.7 (Election of States).

As to the designation of States under Chapter I, see Article 4(1)(ii) and (2), and Rule 4.9.

For later elections, see Rule 56 (Later Elections) and Rule 60.2 (Defects in Later Elections).

As to the election of non-designated States, see Rule 60.3 (Attempted Elections).

Contracting States which have made the reservation under Article 64(1) are not bound by Chapter II.

PARAGRAPH (4)(b): Only Contracting States bound by Chapter II of this Treaty may be elected. As to the election of a State not bound by Chapter II, see Rule 60.3 (Attempted Elections). This Rule may be considered as applying by analogy also to the case where the demand was made under paragraph (2)(b) and the applicant attempts to elect a State which, although bound by Chapter II, has not made a declaration under paragraph (4)(b).

PARAGRAPH (5): See Rules 57 (The Handling Fee) and 58 (The Preliminary Examination Fee). See also Rules 60.1(b) and 60.2(b).

PARAGRAPH (6)(a): See Rule 59 (The Competent International Preliminary Examining Authority).

PARAGRAPH (6)(b): See Rule 56 (Later Elections). See also Rules 57.2(b), 57.3(b), 57.5, 60.2, and 60.3.

PARAGRAPH (7): See Rule 61.2 (Notification of the Demand and Elections: Notifications to the Elected Offices).

"Elected Office" is defined in Article 2(xiv).

NOTES ON ARTICLE 32

PARAGRAPH (1): As to the procedure, see in particular Articles 34 to 36.

(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.

PARAGRAPH (2): Demands under Article 31(2)(a) are demands made by residents or nationals of Contracting States bound by Chapter II. Rule 59.1 specifies the competent Authority.

Demands under Article 31(2)(b) are demands made by residents or nationals of a State not party to the Treaty or not bound by Chapter II whom the Assembly has decided to allow to make demands. Rule 59.2 specifies the competent Authority.

The agreement shall provide for the level of cost of preparing copies (Rule 71.2(b)).

“Receiving Office” is defined in Article 2(xv).

PARAGRAPH (3): Article 16(3) deals with the appointment of International Searching Authorities.

The minimum requirements for International Preliminary Examining Authorities are specified in Rule 63.

All International Preliminary Examining Authorities have the right to receive copies of all publications of the International Bureau relating to the Treaty (Rule 87.1).

NOTES ON ARTICLE 33

PARAGRAPH (1): The three criteria are defined in the following paragraphs: novelty, in paragraph (2); inventive step (non-obviousness), in paragraph (3); industrial applicability, in paragraph (4).

PARAGRAPH (2): See Rule 64 (Prior Art for International Preliminary Examination).

PARAGRAPH (3): See Rules 64 (Prior Art for International Preliminary Examination) and 65 (Inventive Step or Non-Obviousness). The relevant date is prescribed in Rule 65.2.

(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 purposes 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.

PARAGRAPH (4): Article 1(3) of the Paris Convention (Stockholm Act) provides that "Industrial property shall be understood in the broadest sense and shall apply not only to industry and commerce proper, but likewise to agricultural and extractive industries and to all manufactured or natural products, for example, wines, grain, tobacco leaf, fruit, cattle, minerals, mineral waters, beer, flowers, and flour."

PARAGRAPH (5): "Patentable" means not only that a patent may be granted but, alternatively, that an inventor's certificate, a utility certificate, or a utility model may be granted (see Article 2(ii)).

PARAGRAPH (6): As to the documents cited in the international search report, Rule 43.5(a) provides: "The international search report shall contain the citations of the documents considered to be relevant."

NOTES ON ARTICLE 34

PARAGRAPH (1): The main relevant provisions of the Treaty and the Regulations are contained in Articles 34 to 36, and Rules 66 to 74 and 91.

PARAGRAPH (2)(a): See Rule 66 (Procedure Before the International Preliminary Examining Authority), particularly Rules 66.2 (First Written Opinion of the International Preliminary Examining Authority), 66.3 (Formal Response to the International Preliminary Examining Authority), 66.4 (Additional Opportunity for Amendment or Correction), 66.5 (Amendment), and 66.6 (Informal Communications with the Applicant).

PARAGRAPH (2)(b): See Rule 66 (Procedure Before the International Preliminary Examining Authority). Amendment may be made before the international preliminary examination starts (Rule 66.1), after the first written opinion has issued (Rules 66.2(d) and 66.3), if additional written opinions issue, after such opinion has issued (Rule 66.4(a)), or on special request of the applicant (Rule 66.4(b)). For form of amendment, see Rule 66.8.

(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.

PARAGRAPH (2)(c): See Rule 66.2 (First Written Opinion of the International Preliminary Examining Authority).

The criteria set forth in Article 33(1) are novelty, inventive step or non-obviousness, and industrial applicability.

The International Preliminary Examining Authority is not obliged to check whether the international application complies with any of the requirements of the Treaty or the Regulations. But if it notices any defect in the form or contents of the international application or if it considers that any amendment goes beyond the disclosure in the international application as filed, it must notify the applicant accordingly (Rule 66.2(a)(iii) and (iv)). If the International Preliminary Examining Authority is of the opinion that the claims, the description, or the drawings are not quite clear, or that the claims are not fully supported by the description it may notify the applicant accordingly (Rule 66.2(a)(v)); if, however, the lack of clarity or support is of such degree that no meaningful opinion can be formed on the question of novelty, inventive step or non-obviousness, and industrial applicability, notification of the applicant becomes obligatory (see Article 34 (4)(a)(ii)).

As to the observations under Article 35(2), last sentence, see Rule 70.8.

PARAGRAPH (2)(d): See Rules 66.3 (Formal Response to the International Preliminary Examining Authority), 66.4 (Additional Opportunity for Amendment or Correction), and 66.5 (Amendment). As to the time limit for response, see Rule 66.2(d).

PARAGRAPH (3)(a): The concept of unity of invention is defined in Rule 13, and the procedure before the International Preliminary Examining Authority in case of

lack of unity of invention is governed by Rule 68. See also Rules 69.1(a)(ii) and 70.13. The additional fee may be paid under protest (see Rule 68.3(c)). There is no possibility of dividing the international application in the international phase.

It goes without saying that any elected Office or the courts of any elected State may disagree with the interpretation of the International Preliminary Examining Authority on Rule 13. Consequently, for example:

(i) The International Preliminary Examining Authority has asked for restriction or additional fees: the elected Office or the courts of the elected State may still consider that there is unity of invention, even if the applicant has complied with the invitation of the Authority.

(ii) The said Authority has asked for X number of additional fees: the elected Offices may still ask for Y number of divisions (and national fees), even if the applicant has complied with the invitation of the Authority.

(iii) The said Authority has not asked either for restriction or for additional fees: the elected Office or the courts of the elected State may still find that there is no unity of invention, with the consequences (division or other) which its national law provides for such cases.

PARAGRAPH (3)(b): The consequence provided for in this paragraph is the only consequence of the lack of international preliminary examination of those parts which were left out on account of the restriction of the claims.

See also Rule 68.4 (Procedure in the Case of Insufficient Restriction of the Claims).

“National law” and “national Office” are defined in Article 2(x) and (xii), respectively.

(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.

PARAGRAPH (3)(c): The time-limit is specified in Rule 68.2, last sentence.

See also Rule 68.4 (Procedure in the Case of Insufficient Restriction of the Claims).

As to "main invention," see Rule 68.5.

The consequences provided for in this paragraph are the only consequences of not complying with the invitation issued under paragraph (3)(a).

"National law" and "national Office" are defined in Article 2(x) and (xii), respectively.

PARAGRAPH (4)(a)(i): As to the subject matter in question, see Rule 67.

PARAGRAPH (4)(a)(ii): As to the requirements for the description, claims, and drawings, see Articles 5, 6, 7, and the Rules cited thereunder.

PARAGRAPH (4)(a), final phrase: The questions referred to in Article 33(1) are the questions of novelty, inventive step or non-obviousness, and industrial applicability.

In the situations described in items (i) and (ii), the international preliminary examination report will merely state the opinion that the report cannot go into the said three questions (see Article 35(3)(a)). There is no other consequence: the report containing the said opinion will be communicated to the elected States and the national examination and other processing will start.

PARAGRAPH (4)(b): In other words, the report will go into the three questions in respect of some of the claims, whereas, in respect of others, it will merely express the opinion that it is not possible to go into the three questions.

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).

NOTES ON ARTICLE 35

PARAGRAPH (1): See Rules 69.1 (Time Limit for International Preliminary Examination) and 70 (The International Preliminary Examination Report).

PARAGRAPH (2): See Rule 70 (The International Preliminary Examination Report), particularly Rules 70.6 (Statement under Article 35(2)), 70.7 (Citations under Article 35(2)), 70.8 (Explanations under Article 35(2)), and 70.12 (Mention of Certain Defects).

“National law” is defined in Article 2(x).

PARAGRAPH (3)(a): The situations referred to in Article 34(4)(b) are that the international application relates to subject matter on which the International Preliminary Examining Authority is not required to carry out examination, and in fact has not done so (see Rule 67), or that the international application is “unexaminable” on account of lack of clarity or failure of the description to adequately support the claims. The statement provided for in paragraph (2) is the statement on the questions whether the invention is novel, involves an inventive step (is non-obvious), and is industrially applicable.

PARAGRAPH (3)(b): That is, if the situations described in the foregoing paragraph exist only in relation to some (not all) of the claims.

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.

NOTES ON ARTICLE 36

PARAGRAPH (1): See Rule 71.1 (Transmittal of the International Preliminary Examination Report: Recipients). The annexes are the replacement sheets or letters containing amendments or corrections (Rule 70.16) and – on the applicant's request – the protest and the decision concerning unity of invention (Rule 68.3(c), last sentence).

PARAGRAPH (2)(a) and (b): See Rules 72 (Translation of the International Preliminary Examination Report) and 74 (Translations of Annexes of the International Preliminary Examination Report and Transmittal Thereof).

The number of translations of the international preliminary examination report required determines the amount of the handling fee (Rule 57.2).

PARAGRAPH (3)(a): See Rule 73 (Communication of the International Preliminary Examination Report). As to translations, see Rules 72 and 74.

“Elected Office” is defined in Article 2(xiv).

PARAGRAPH (3)(b): See Rule 74 (Translations of Annexes of the International Preliminary Examination Report and Transmittal Thereof).

“Elected Office” is defined in Article 2(xiv).

PARAGRAPH (4): See Rule 71.2 (Copies of Cited Documents).

NOTES ON ARTICLE 37

PARAGRAPH (1): See Rule 75 (Withdrawal of the Demand, or of Elections).

PARAGRAPH (2): –

(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.

PARAGRAPH (3)(a): See Rule 75.1(b).

PARAGRAPH (3)(b): See Rules 75.2 (Notification of Elected Offices) and 75.3 (Notification of the International Preliminary Examining Authority).

“Elected Office” is defined in Article 2(xiv).

PARAGRAPH (4)(a): “National law” is defined in Article 2(x).

PARAGRAPH (4)(b): The time limit under Article 22 is generally 20 months from the priority date.

Article 37(4) means that if the demand or election is withdrawn inside the time limit applicable under Article 22, then the international application itself, and the designation of the State whose election is withdrawn, is not considered withdrawn since the withdrawal of the demand or of the election occurred inside the period during which the national Office cannot process the international application. Thus, such Office is in no different a position than if the demand or election had never been made. See also Rule 75.4 (Withdrawal of the Demand, or of Elections: Faculty Under Article 37(4)(b)).

“National law” and “national Office” are defined in Article 2(x) and (xii), respectively.

NOTES ON ARTICLE 38

PARAGRAPH (1): See the observations concerning paragraph (2).

“Elected Office” is defined in Article 2(xiv).

(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 25 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.

PARAGRAPH (2): The combined effect of paragraphs (1) and (2) is that information concerning the international preliminary examination will be given *only to an elected Office* and that such information will consist of the following and will normally occur in the following sequence:

- *the fact of election* will be notified (Article 31(7) and Rule 61.2),
- *the fact of withdrawal* will be notified (Article 37(3)(b) and Rule 75.2) and if there is withdrawal of the election of a given State such State will not be given any further information even if the international preliminary examination report later issues since such report is communicated only to elected Offices and the Office of the said State will have ceased to be an elected Office (see Article 38(1)),
- *the international preliminary examination report* will be communicated (Article 36(3)(a) and Rule 73),
- *the file of the international preliminary examination* will be accessible to the elected Office but only *after* the international preliminary examination report is established, that is, after the dialogue between the applicant and the International Preliminary Examining Authority has been concluded (Article 38(1)).

It is to be noted that neither the International Preliminary Examining Authority nor the International Bureau will give any information concerning the file to anyone other than the elected Offices at any time and that no information will be published either.

GENERAL OBSERVATIONS

As to the keeping of records and files, see Rules 93.3 and 93.4.

As to the furnishing of copies at the applicant's request, see Rule 94.1.

As to the availability of translations, see Rule 95.

NOTES ON ARTICLE 39

PARAGRAPH (1)(a): Article 22 provides for a 20-month time limit which is incompatible with the 25-month time limit fixed in this subparagraph.

See Rule 76 (Languages of Translations and Amounts of Fees Under Article 39(1); Translation of Priority Document).

As to the publication of any information on the question whether the requirements provided for under this Article have been complied with, see Rule 86.1 (The Gazette: Contents).

“Priority date” and “elected Office” are defined in Article 2(xi) and (xiv), respectively.

PARAGRAPH (1)(b): See Rule 77 (Faculty under Article 39(1)(b)).

As to notification of applicant of applicable time limits in different elected Offices, see Rule 61.3.

“National law” is defined in Article 2(x).

(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.

PARAGRAPH (2): The effect provided for in Article 11(3) is, in essence, that an international application has the effect of a national application in each designated State and – since only designated States may be elected (Article 31(4)) – in each elected State.

“National application” is defined in Article 2(vi).

PARAGRAPH (3): As to the effect provided for in Article 11(3), see the observations contained in the foregoing paragraph.

“Elected Office” is defined in Article 2(xiv).

NOTES ON ARTICLE 40

PARAGRAPH (1): Article 23 refers to a 20-month time limit which is incompatible with the 25-month time limit referred to in Article 39. See also Rule 78.3 (Amendment of the Claims, the Description, and the Drawings, Before Elected Offices: Utility Models).

The “applicable time limit under Article 39” will be 25 months from the priority date (Article 39(1)(a)) or more when the elected State so allows (Article 39(1)(b)).

“Priority date” and “national Office” are defined in Article 2(xi) and (xii), respectively.

PARAGRAPH (2): The applicant must address such a request direct to the elected Office.

“Elected Office” is defined in Article 2(xiv).

NOTES ON ARTICLE 41

PARAGRAPH (1): The time limit is fixed in Rules 78.1 and 78.2.

“Patent” is defined in Article 2(ii) and (ix), whereas “elected Office” is defined in Article 2(xiv).

PARAGRAPH (2): “National law” is defined in Article 2(x).

(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.

PARAGRAPH (3): "National law" is defined in Article 2(x).

PARAGRAPH (4): The right to require a translation is provided for in Article 39(1)(a).

"Elected Office" is defined in Article 2(xiv).

NOTES ON ARTICLE 42

SOLE PARAGRAPH: There is a growing tendency in examining Offices to obligate the applicant to produce copies, or information on the contents, of any papers connected with the examination of the same invention in *other* examining Offices. Sometimes it is even required that the applicant furnish translations of such papers. Such requirements may become extremely costly and vexatious for the applicant. Article 42 would exclude such requirements, provided the other Offices were also elected under Chapter II. Such other Offices would hardly lose anything because, instead of the said papers, they would receive the international preliminary examination report, which generally will be more valuable to them as it is prepared according to agreed international criteria.

On the other hand, nothing in this Article prevents any elected Office from asking any other elected Office to exchange with it – direct, that is, without the intervention of the applicant and without placing any burden on him – information on the examination results in the national phase, provided such exchange is permitted by the applicable laws.

"Elected Office" is defined in Article 2(xiv).

NOTES ON CHAPTER III

This Chapter, entitled "Common Provisions," contains seven Articles (Articles 43 to 49).

They consist of provisions which concern both Chapter I and Chapter II.

NOTES ON ARTICLE 43

SOLE PARAGRAPH: See Rule 4.12(a) (The Request (Contents): Choice of Certain Kinds of Protection).

"Patent" is defined in Article 2(ix).

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.

NOTES ON ARTICLE 44

SOLE PARAGRAPH: See Rule 4.12(b) (The Request (Contents): Choice of Certain Kinds of Protection).

For example, the law of Germany (Federal Republic) allows the same application to be for the grant of a patent and for the grant of a utility model.

"Application" is defined in Article 2(i) and (viii), whereas "patent" is defined in Article 2(ix).

NOTES ON ARTICLE 45

PARAGRAPH (1): "Regional patent" is defined in Article 2(iv).

PARAGRAPH (2): "Regional patent" and "national law" are defined in Article 2(iv) and (x), respectively.

NOTES ON ARTICLE 46

SOLE PARAGRAPH: The provision deals only with an

incorrect translation that results in a patent whose scope is *broader* than that of the international application. It goes without saying that, if the translation filed by the applicant under Articles 22 or 39 is incorrect and, because of such defect, *narrows* the disclosure as it appears in the international application as filed (i.e., in its original language), the translation may – although it does not have to – be considered by the designated (elected) Office as constituting an irrevocable renunciation of any part of the disclosure not contained in the translation. The cumulative effect of this understanding and Article 46 is that the valid scope of any national patent is limited by what is clearly comprised both in the international application in the original language and its translation.

In any case, no national Office will be obligated, during the national examination procedure, to refer to the international application in its original language. It may base its examination on the translation only.

"Patent" is defined in Article 2(ii) and (ix).

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.

NOTES ON ARTICLE 47

PARAGRAPH (1): See Rules 79 (Calendar) and 80 (Computation of Time Limits).

Time limits are contained in the Articles enumerated in connection with paragraph (2)(a) below, and in Articles 57(5)(e); 61(1)(b), (3)(a)(c); 63(1)(a), (2); 64(3)(b), (3)(c)(ii), (4)(a), (6)(a)(b); 65(2); 66(2).

PARAGRAPH (2)(a): The following provisions of Chapters I and II fix time limits counted from the priority date:

Article 13(1) (copy of the international application available to the designated Office as soon as possible after one year);

Article 21(2)(a) (international publication promptly after 18 months);

Article 22(1) (copy of the international application, translation, national fee, and in certain cases, identification of the inventor, to the designated Office by the 20th month);

Article 23(1) (delaying of national procedure in the designated Office for not less than 20 months);

Article 29(3) (effects of international publication starting, in certain cases, at the expiration of 18 months);

Article 30(4) (general publication of an international application or its translation not allowed, in certain cases, before 20 months);

Article 37(4)(b) (withdrawal of the demand or of the election prior to the expiration of 20 months);

Article 39(1)(a) (copy of the international application, translation, and national fee, to the elected Office by the 25th month if the election is effected not later than the end of 19 months);

Article 40(1) (delaying of national procedure in the elected Office for not less than 25 months if the election is effected not later than at the end of 19 months).

The time limit (2 months) for furnishing the copy of the international application, translation, national fee, and, in certain cases, the identification of the inventor, to the designated Office where no international search report issues is counted from the date of the notification under Article 17(2)(a) (Article 22(2)).

The time limit before which a national Office generally cannot allow access to the international application is dependent upon the earliest of three dates (Article 30(2)(a)).

PARAGRAPH (2)(b): See Article 53(2)(a)(ii) and Rule 81 (Modification of Time Limits Fixed in [Chapters I and II of] the Treaty).

PARAGRAPH (2)(c): See Rule 81 (Modification of Time Limits Fixed in [Chapters I and II of] the Treaty).

NOTES ON ARTICLE 48

PARAGRAPH (1): See Rule 82 (Irregularities in the Mail Service).

With one exception, the "cases" include all situations in which mail may be used under the Treaty. The exception is constituted by the case where the record copy does not arrive, or arrives after the prescribed time limit, at the International Bureau (see Rule 22.3(b)). The "proof and other conditions" are spelled out in Rules 82.1 (Delay or Loss in Mail) and 82.2 (Interruption in the Mail Service).

PARAGRAPH (2)(a): See Rule 22.3(b).

"National law" is defined in Article 2(x).

(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.

PARAGRAPH (2)(b): See Rule 22.3(b).

NOTES ON ARTICLE 49

SOLE PARAGRAPH: See Rule 83 (Right to Practice Before International Authorities).

As to “agent,” see Rule 2.2 (Interpretation of Certain Words: “Agent”).

“National Office” is defined in Article 2(xii).

NOTES ON CHAPTER IV

This Chapter entitled “Technical Services” contains 3 Articles (Articles 50 to 52).

Article 50 deals with patent information services. Article 51 deals with technical assistance. Article 52 establishes the separation between the financial provisions in this Chapter with those in other Chapters of the Treaty.

NOTES ON ARTICLE 50

PARAGRAPH (1): “Application” is defined in Article 2(i) and (viii), whereas “patent” is defined in Article 2(ii) and (ix).

PARAGRAPH (2): –

PARAGRAPH (3): –

PARAGRAPH (4): –

(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.

PARAGRAPH (5)(a): The sources referred to in Article 51(4) are international financing organizations and intergovernmental organizations.

PARAGRAPH (5)(b): "National Office" is defined in Article 2(xii).

PARAGRAPH (6): Decisions require a two-thirds majority (see Article 53(6)(a)).

PARAGRAPH (7): Recommendations require a two-thirds majority (see Article 53(6)(a)).

NOTES ON ARTICLE 51

PARAGRAPH (1): –

PARAGRAPH (2)(a): The decision requires a two-thirds majority (see Article 53(6)(a)).

PARAGRAPH (2)(b): "Director General" is defined in Article 2(xx).

PARAGRAPH (3)(a) and (b): –

(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.

PARAGRAPH (4): The United Nations Development Programme and the International Bank for Reconstruction and Development are among such organizations.

PARAGRAPH (5): The decisions require a two-thirds majority (see Article 53(6)(a)).

NOTES ON ARTICLE 52

SOLE PARAGRAPH: Article 57 contains the principal financial provisions and it appears in another Chapter.

NOTES ON CHAPTER V

This Chapter, entitled "Administrative Provisions," contains six Articles (Articles 53 to 58).

The first four deal with four organs: the Assembly (Article 53), the Executive Committee (Article 54), the International Bureau (Article 55), and the Committee for Technical Cooperation (Article 56).

Article 57 deals with finances, and Article 58 with the Regulations.

Most of the provisions of this Chapter follow closely the administrative provisions of the Paris Convention as revised at Stockholm in 1967.

NOTES ON ARTICLE 53

PARAGRAPH (1)(a): "Contracting States" means "States party to this Treaty" (Article 1). According to Article 57(8) the State on the territory of which the Organization has its headquarters (i.e., Switzerland) has, under certain conditions, an *ex officio* seat in the Assembly.

PARAGRAPH (1)(b): See Rule 84 (Expenses of Delegations).

- (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;
 - (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.

PARAGRAPH (2)(a)(i): –

PARAGRAPH (2)(a)(ii): These tasks, apart from the tasks enumerated in subparagraph (2)(a), are the following: allow residents or nationals of non-Contracting States which are party to the Paris Convention to file international applications (Article 9(2)); appoint International Searching Authorities (Article 16(3)(a)); approve agreements between the International Bureau and the International Searching Authorities (Article 16(3)(b)); hear the (prospective) International Searching Authorities and seek the advice of the Committee for Technical Cooperation (Article 16(3)(e)); perform similar tasks with respect to (prospective) International Preliminary Examining Authorities (Article 32(2) and (3)); allow certain persons to make a demand for international preliminary examination if they are not residents or nationals of a Contracting State or a State bound by Chapter II (Article 31(2)(b)); modify the time limits fixed in the Treaty (Article 47(2)(b)); implement the information services (see Article 50(4), (6) and (7)); establish the Committee for Technical Assistance (Article 51(1)) and fix the details concerning technical assistance (Article 51(5)); set up the Executive Committee (Article 53(9)); approve the annual programs and budget until the Executive Committee is set up (Article 53(10)); adopt its own rules of procedure (Article 53(12)); regulate the election of the members of the Executive Committee

(Article 54(5)(c)); create new publications by the International Bureau (Article 55(4)); direct the preparation of revision conferences (Article 55(7)(a)); establish and direct the Committee for Technical Cooperation (Article 56(1), (2)(a), (3)(iii), (5), (6)(b), (7), (8)); make certain financial decisions (Article 57(5)(b), (c), (d), (e), (7)(a), (b), (c), (9)); amend the Regulations (Article 58(2)(a)); exercise control over the Administrative Instructions (Article 58(4)); convene revision conferences (Article 60(2)); amend certain administrative provisions of the Treaty (Article 61(1), (2), (3)); adopt measures for the gradual application of the Treaty (Article 65(1), (2)); designate additional languages for official texts of the Treaty (Article 67(1)(b)).

PARAGRAPH (2)(a)(iii): See Article 60 (Revision of the Treaty).

PARAGRAPH (2)(a)(iv) to (x): –

PARAGRAPH (2)(b): “Organization” is defined in Article 2(xviii).

(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.

PARAGRAPH (3): –

PARAGRAPH (4): –

PARAGRAPH (5)(a): –

PARAGRAPH (5)(b): See Rule 85.1 (Absence of Quorum in the Assembly: Voting by Correspondence).

PARAGRAPH (6)(a): The following acts call for unanimity: changing the time limits fixed in Chapters I and II of the Treaty (Article 47(2)(a)), amendment of certain Rules (Article 58(3)(a)(i)), exclusion of certain Rules from the requirement of unanimity (Article 58(3)(b)), and inclusion of Rules among the Rules which can be changed only unanimously or without the dissenting vote of certain Contracting States (Article 58(3)(c)).

Two acts call for no dissenting vote by certain Contracting States: amendment of certain Rules (Article 58(3)(a)(ii)), and exclusion of such Rules from the said requirement (Article 58(3)(b)).

Two acts call for a three-fourths majority: amendment of certain Rules (Article 58(2)(b)), and amendment of certain provisions of the Treaty (Article 61(1)(a)).

PARAGRAPH (6)(b): –

PARAGRAPH (7): Chapter II deals with international preliminary examination.

PARAGRAPH (8): –

PARAGRAPH (9): The election of the members of the Executive Committee requires a two-thirds majority (Article 53(6)(a)).

PARAGRAPH (10): –

(11)(a) Until the Executive Committee has been established, the Assembly shall meet once in every 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 Coordination Committee of the Organization.

(b) Once the Executive Committee has been established, the Assembly shall meet once only in every third 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.

(c) 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.

PARAGRAPH (11)(a) to (c): –

PARAGRAPH (12): –

PARAGRAPH (3): –

PARAGRAPH (4): –

NOTES ON ARTICLE 54

PARAGRAPH (1): See Article 53(9) concerning the establishment of an Executive Committee.

PARAGRAPH (2)(a): According to Article 57(8), the State on the territory of which the Organization has its headquarters (i.e., Switzerland) has, under certain conditions, an *ex officio* seat on the Executive Committee.

PARAGRAPH (2)(b): –

(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 reelected 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 triennial budget of the Union prepared by the Director General;

(iii) approve, within the limits of the program and triennial budget, the specific yearly budgets and programs prepared by the Director General;

(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.

PARAGRAPH (5)(a): As to the time of meeting of the Assembly in ordinary session, see Article 53(11)(b).

PARAGRAPH (5)(b) and (c): –

PARAGRAPH (6)(a)(i) to (v): –

PARAGRAPH (6)(a)(vi): These functions, apart from the functions enumerated in Article 54(6)(a), are the following express its view on the advice of the Committee for Technical Cooperation (Article 56(6)(b)); initiate proposals for the amendment of certain Articles (Article 61(1)).

PARAGRAPH (6)(b): –

PARAGRAPH (7)(a): As to the time of the meeting of the Coordination Committee of the Organization, see Article 8(4) of the Convention Establishing the World Intellectual Property Organization.

PARAGRAPH (7)(b): –

- (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.

PARAGRAPH (8)(a) to (e): –
 PARAGRAPH (9): –
 PARAGRAPH (10): –

NOTES ON ARTICLE 55

PARAGRAPH (1): –
 PARAGRAPH (2): –
 PARAGRAPH (3): –

PARAGRAPH (4): See Rule 86 (The Gazette). See also Rules 3.3(a)(iii); 19.3(b); 22.4; 23.1(c); 48.6(a)(b)(c); 49.1(b)(c); 50.1(b)(d); 72.1(b); 75.4(b); 76.1(b)(c); 77.1(b)(d); 87.1, 87.2(a); 89.3(a)(b).

PARAGRAPH (5): “National Office” is defined in Article 2(xii).

PARAGRAPH (6): –

PARAGRAPH (7)(a): As to revision conferences, see Article 60.

(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.

PARAGRAPH (7)(b) and (c): –

PARAGRAPH (8): –

NOTES ON ARTICLE 56

PARAGRAPH (1): –

PARAGRAPH (2)(a): These decisions require a two-thirds majority (see Article 53(6)(a)).

PARAGRAPH (2)(b): “National Office” is defined in Article 2(xii).

PARAGRAPH (2)(c): –

PARAGRAPH (2)(d): It is to be noted that both international and national non-governmental organizations are meant. It goes without saying that they will receive the documents necessary for intelligent participation.

PARAGRAPH (3): –

(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.

PARAGRAPH (4): –

PARAGRAPH (5): In other words, the Committee's advice and recommendations need not be cleared by the Executive Committee or the Assembly before communication to the International Searching or Preliminary Examining Authorities or the receiving Offices.

“Receiving Office” is defined in Article 2(xv).

PARAGRAPH (6)(a) and (b): –

PARAGRAPH (7): –

PARAGRAPH (8): The decisions require a two-thirds majority (Article 53(6)(a)).

NOTES ON ARTICLE 57

PARAGRAPH (1)(a) to (c): –

(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.

PARAGRAPH (2): –

PARAGRAPH (3): –

PARAGRAPH (4): It is to be noted that the amounts of all the important fees to be collected by or for the benefit of the International Bureau are fixed in the Regulations and thus are fixed by the Assembly. Minor fees will be fixed in the Administrative Instructions, over which the Assembly has control (cf. Article 58(4)).

PARAGRAPH (5)(a) to (e): –

(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.

PARAGRAPH (6): –

PARAGRAPH (7)(a) to (d): –

PARAGRAPH (8)(a) and (b): –

PARAGRAPH (9): –

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 authorized 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.

NOTES ON ARTICLE 58

PARAGRAPH (1)(i): See the following Articles: 2, 2(xii); 3(2), (4)(i)(ii)(iii)(iv); 4(1)(iii)(v), (2), (4); 7(2)(ii); 8(1); 9(3); 10; 11(1)(ii)(iii)(c), (2)(a)(b); 12(1), (3); 14(1)(a)(i)(ii)(v)(b), (2), (3)(a)(b), (4); 15(4), (5)(c); 16(3)(c); 17(1), (2)(a)(i)(ii), (3)(a); 18(1), (3); 19(1); 20(1)(a)(b), (3); 21(2)(b), (3), (4), (6); 22(1); 25(1)(c), (2)(a); 26; 27(1), (4), (5), (8); 28(1), (3); 31(1), (2)(a), (3), (5); 33(2), (3); 34(1), (2)(b)(c)(ii), (3)(a)(c), (4)(a)(i); 35(1), (2); 36(1), (2)(a), (3)(a)(b); 37(4)(b); 39(1)(a); 41(1), (3); 43; 44; 47(1), (2)(c); 48(1); 53(5)(b), (9); 55(4), (5), (6); 58(2)(a), (3)(a)(b)(c), (4), (5); 59; 63(3); 64(1)(b), (2)(a)(i), (3)(c)(i); 65(1); 68(2), (4).

PARAGRAPH (1)(ii) and (iii): –

PARAGRAPH (2)(a): See Rule 88 (Amendment of the Regulations).

PARAGRAPH (2)(b): –

PARAGRAPH (3)(a)(i): See Rules 88.1 (Amendment of the Regulations: Requirement of Unanimity) and 88.2 (Amendment of the Regulations: Requirement of Unanimity During a Transitional Period).

PARAGRAPH (3)(a)(ii): See Rule 88.3 (Amendment of the Regulations: Requirement of Absence of Opposition by Certain States).

“National Office” is defined in Article (2)(xii).

PARAGRAPH (3)(b) and (c): –

PARAGRAPH (4): See Rule 89 (Administrative Instructions). See also Rules 3.4; 5.1(c); 6.1(c); 20.1(b); 43.5(b), 43.10; 48.1(b), 48.2(b)(i), 48.2(i), 48.4(a); 53.1(c); 70.6(a), 70.8, 70.15; 86.1(i)(v), 86.4, 86.6.

(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.

PARAGRAPH (5): –

NOTES ON CHAPTER VI

This Chapter, entitled “Disputes,” contains one Article (Article 59).

NOTES ON ARTICLE 59

SOLE PARAGRAPH: Under Article 64(5), any Contracting State may declare that it will not be bound by the provisions of this Article.

NOTES ON CHAPTER VII

This Chapter, entitled “Revision and Amendment,” contains two Articles (Articles 60 and 61).

Article 60 deals with the possibility of “revising” any provision of the Treaty in special “revision” conferences.

Article 61 deals with the possibility of “amending” certain provisions of the Treaty by the Assembly.

Whereas “revisions” bind only those Contracting States which ratify or accede to them, “amendments” bind also the other Contracting States party to the Treaty at the time the amendment enters into force, except if the amendment increases their financial obligations, and all States becoming party to the Treaty after the amendment enters into force.

Otherwise, the terms of “revising” and “amendment” mean the same, that is, changing the provisions of the Treaty.

NOTES ON ARTICLE 60

PARAGRAPH (1): –

PARAGRAPH (2): The decision requires a two-thirds majority (see Article 53(6)(a)).

PARAGRAPH (3): See the Note concerning Article 61(1)(a), below.

(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).

PARAGRAPH (4): Article 53(5) deals with the quorum in the Assembly; Article 53(9) provides when the Executive Committee must be established; Article 53(11) regulates the convocation of sessions of the Assembly; Article 54 deals with the Executive Committee; Article 55(4) provides what publications the International Bureau must issue; Article 55(5) provides what services the national Offices must perform in order to assist the International Bureau and the International Searching and Preliminary Examining Authorities; Article 55(6) provides for the role of the International Bureau in meetings and as Secretariat; Article 55(7) provides for the role of the International Bureau in connection with revision conferences; Article 55(8) provides that "the International Bureau shall carry out any other tasks assigned to it;" Article 56 deals with the Committee for Technical Cooperation; Article 57 deals with finances.

NOTES ON ARTICLE 61

PARAGRAPH (1)(a): The Articles referred to deal with administrative matters of relatively minor importance. Article 53(5), (9) and (11) deals with the quorum of the

Assembly, the establishment of the Executive Committee, and the convocation of meetings, respectively. Article 54 deals with the Executive Committee. Article 55(4) to (8) deals with certain details of the tasks of the International Bureau. Article 56 deals with the Committee for Technical Cooperation. Article 57 deals with finances (see, however, Article 61(3)(b) and (c) which provides that any amendment increasing the financial obligations of the Contracting States shall bind only those States party to the Treaty at the time the amendment enters into force which have – expressly and individually – notified their acceptance of such amendment but that such amendment shall be binding on all States becoming party to the Treaty thereafter).

PARAGRAPH (1)(b): –

PARAGRAPH (2)(a) and (b): –

PARAGRAPH (3)(a) to (c): –

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.

NOTES ON CHAPTER VIII

This Chapter, entitled "Final Provisions," contains eight Articles (Articles 62 to 69).

The first two (Articles 62 and 63) deal with the question of becoming party to the Treaty and the entry into force of the Treaty.

Article 64 deals with reservations to certain provisions of the Treaty.

Article 65 deals with the gradual application after entry into force of the Treaty.

Article 66 deals with denunciation of the Treaty.

Articles 67 to 69 deal with formal matters (signature and languages; depositary functions; notifications).

NOTES ON ARTICLE 62

PARAGRAPH (1)(i): The Treaty could be signed only before January 1, 1971 (see Article 67(2)).

PARAGRAPH (1)(ii): –

PARAGRAPH (2): –

PARAGRAPH (3): Article 24 of the Stockholm Act of the Paris Convention reads as follows:

"(1) Any country may declare in its instrument of ratification or accession, or may inform the Director General by written notification any time thereafter, that this Convention shall be applicable to all or part of those territories, designated in the declaration or notification, for the external relations of which it is responsible.

(2) Any country which has made such a declaration or given such a notification may, at any time, notify the Director General that this Convention shall cease to be applicable to all or part of such territories.

(3)(a) Any declaration made under paragraph (1) shall take effect on the same date as the ratification or accession in the instrument of which it was included, and any notification given under such paragraph shall take effect three months after its notification by the Director General.

(b) Any notification given under paragraph (2) shall take effect twelve months after its receipt by the Director General."

PARAGRAPH (4): –

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 instruments 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).

NOTES ON ARTICLE 63

PARAGRAPH (1)(a): Publication of the statistics occurs each year in the December issue of “Industrial Property.”

“Application” is defined in Article 2(i) and (viii), whereas “national Office” is defined in Article 2(xii).

PARAGRAPH (1)(b): The definitions contained in Article 2(i) and (viii) apply subject to this exception.

PARAGRAPH (2): This paragraph deals with the States other than those which, as a group, cause the initial entry into force of the Treaty.

PARAGRAPH (3): –

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).

NOTES ON ARTICLE 64

PARAGRAPHS (1) and (2): It results from these paragraphs that the attitude of each Contracting State with respect to Chapter II may be any of the following three:

(i) The State may decide to accept Chapter II with all its consequences; to achieve this, it merely has to accede to the Treaty and not make any reservations under paragraphs (1) or (2).

(ii) The State may decide not to accept any part of Chapter II; to achieve this, it has to make use of the possibility of reservation under paragraph (1). The consequences will be that such a State cannot be elected, that it will not receive international preliminary examination reports, and that its nationals and residents filing international applications cannot (unless they happen to be entitled to file, and do file, in a State bound by Chapter II or unless they fall under Article 31(2)(b)) ask for international preliminary examination.

(iii) The State may decide on a course which is between (i) and (ii), and which consists of accepting Chapter II but with a reservation; to achieve this, it has to make use of the possibility of reservation under paragraph (2). The consequences, roughly stated, will be the same as they would be if the State accepted Chapter II, except that the translation will have to be furnished to its national Office by the expiration of 20 (rather than 25) months from the priority date and that the international application may be *nationally* published any time

after 20 (rather than 25) months from the priority date.

PARAGRAPH (1)(a): Chapter II deals with international preliminary examination.

PARAGRAPH (1)(b): –

PARAGRAPH (2)(a)(i): Article 39(1) allows the applicant to delay the furnishing of the copy of the international application and its translation until the expiration of 25 months from the priority date.

PARAGRAPH (2)(a)(ii): Under Article 40, the delay is generally until the expiration of 25 months from the priority date. Article 30 limits the right of designated and elected Offices to allow access to the files of the international application. Article 38 limits the right of elected Offices to obtain access to the file of the international preliminary examination.

PARAGRAPH (2)(b): –

PARAGRAPH (3)(a): International publication is governed by Article 21 and the Rules thereunder.

PARAGRAPH (3)(b): Under Article 21(2), international publication would take place promptly after the expiration of 18 months from the priority date.

“Priority date” is defined in Article 2(xi).

(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.

PARAGRAPH (3)(c)(i): As to earlier publication on the applicant's request, see Rules 48.2(g) and 48.4

PARAGRAPH (3)(c)(ii): See Rule 48.5 (Publication of the international application: Notification of national publication).

"Patent" is defined in Article 2(ii) and (ix) whereas "national application," "priority date" and "national Office" are defined in Article 2(vi), (xi) and (xii), respectively.

PARAGRAPH (4)(a): The declaration must be notified to the Director General (paragraph (6)(a)).

"Patent" is defined in Article 2(ii) and (ix) whereas "national law" and "priority date" are defined in Article 2(x) and (xi), respectively.

PARAGRAPH (4)(b): Article 11(3) provides that an international application has the effect of a regular national application in each designated State as of the international filing date, which date is to be considered to be the actual filing date in each designated State.

PARAGRAPH (4)(c): This statement must be notified to the Director General (paragraph (6)(a)).

PARAGRAPH (5): Article 59 stipulates the jurisdiction of the International Court of Justice in case of disputes.

(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.

PARAGRAPH (6)(a): The Director General notifies the declaration to all States members of the Paris Union (Article 69)(iv).

PARAGRAPH (6)(b): The declaration under paragraph (3) is to the effect that "international publication of international applications is not required."

PARAGRAPH (7): –

NOTES ON ARTICLE 65

PARAGRAPH (1): –

PARAGRAPH (2): Chapter II deals with international preliminary examination.

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.

NOTES ON ARTICLE 66

PARAGRAPH (1): –

PARAGRAPH (2): –

NOTES ON ARTICLE 67

PARAGRAPH (1)(a) and (b): –

PARAGRAPH (2): –

NOTES ON ARTICLE 68

PARAGRAPH (1): The Treaty was open for signature until the end of 1970 (see Article 67(2)).

PARAGRAPH (2): –

PARAGRAPH (3): –

PARAGRAPH (4): –

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).

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Treaty.

DONE at Washington, on June 19, 1970.*

Algeria (A. Dahmouche); Argentina, December 21, 1970 (Pedro E Real); Austria, December 22, 1970 (Hans Georg Rudofsky); Belgium, December 30, 1970 (Walter Loridan); Brazil (Miguel A O de Almeida); Canada (A. M. Laidlaw); Denmark (E. Tuxen); Federal Republic of Germany (Rupprecht v Keller, Kurt Haertel); Finland (Erkki Tuuli); France, December 31, 1970 (Charles Lucet); Holy See (Mario Peressin); Hungary (E. Tasnádi); Iran, July 7, 1970 (Dr. A. Aslan Afshar); Ireland (M. J. Quinn); Israel (Z. Sher, Mayer Gabay); Italy (Giorgio Ranzi); Ivory Coast, December 3, 1970 (T. Ahoua); Japan (B. Yoshino, Y. Aratama); Luxembourg, December 30, 1970 (Jean Wagner); Madagascar, December 10, 1970 (Jules A. Razafimbahiny); Monaco, December 31, 1970 (Professor Dr. Charles Schertenleib); Netherlands, December 31, 1970 (R. B. Van Lynden); Norway (Leif Nordstrand); Philippines (Suarez); Romania, December 28, 1970 (Corneliu Bogdan); Senegal, December 29, 1970 (Cheikh I. Fall); Sweden (Göran Borggard); Switzerland (Dr. Walter Stamm); Syria, December 29, 1970 (George J. Tomeh); Togo, December 23, 1970 (Dr. Ohin); Union of Soviet Socialist Republics, December 23, 1970 (A. Dobrynin); United Arab Republic (Moh. Abdel Salam); United Kingdom of Great Britain and Northern Ireland (Edward Armitage, James David Fergusson); United States of America (Eugene M. Braderman, William E. Schuyler, Jr.); Yugoslavia (Prof. Dr. Stojan Pretnar).

* *Editor's Note:*

All the signatures were affixed June 19, 1970, unless otherwise indicated. A written declaration that the Signatory State did not consider itself bound by Article 59 of the Treaty was made at the time of signing on behalf of Hungary, Romania and the Union of Soviet Socialist Republics.

NOTES ON ARTICLE 69

- ITEM (i): Article 62 deals with ways in which a State may become party to the Treaty;
- ITEM (ii): Article 62 deals with ways in which a State may become party to the Treaty;
- ITEM (iii): Article 63 deals with the entry into force of the Treaty;
- ITEM (iv): Article 64 deals with reservations;
- ITEM (v): Article 64 deals with reservations;
- ITEM (vi): Article 66 deals with denunciations;

- ITEM (vii): The declaration under Article 31(4) is to the effect that the State bound by Chapter II is prepared to be elected by residents or nationals of a State not bound by Chapter II but who are entitled to file international applications and to demand international preliminary examination pursuant to a decision of the Assembly (see Article 31(2)(b)).

Regulations under the Patent Cooperation Treaty

PART A INTRODUCTORY RULES

Rule 1 Abbreviated Expressions

1.1 *Meaning of Abbreviated Expressions*

(a) In these Regulations, the word “Treaty” means the Patent Cooperation Treaty.

(b) In these Regulations, the words “Chapter” and “Article” refer to the specified Chapter or Article of the Treaty.

Rule 2 Interpretation of Certain Words

2.1 “Applicant”

Whenever the word “applicant” is used, it shall be construed as meaning also the agent or other representative of the applicant, except where the contrary clearly follows from the wording or the nature of the provision, or the context in which the word is used, such as, in particular, where the provision refers to the residence or nationality of the applicant.

PCT/PCD/5 June 22, 1971(Original: English)
WIPO BIRPI

Notes on the Regulations under the Patent Cooperation Treaty

The present document

The present document contains Notes on the Regulations under the Patent Cooperation Treaty (PCT). There are Notes concerning each of the 95 Rules of the Regulations.

The first Note concerning each Rule, introduced by the words “in general” refers to that provision or those provisions of the Treaty on which the Rule is based or is principally based. Occasionally, that Note also refers to other Articles or Rules which have a close connection with the Rule under consideration.

The rest of the Notes are intended mainly to serve the purpose of facilitating the reading of the text of the Rules by giving brief information on such Articles of the Treaty or other Rules as the Rule under consideration may refer to, so that the reader should generally be able to avoid turning to the page on which those Articles or Rules appear.

It is to be noted that the terms *application*, *patent*, *national patent*, *regional patent*, *regional application*, *national application*, *international application*, *national law*, *priority date*, *national Office*, *designated Office*, *elected Office*, *receiving Office*, *Union*, *Assembly*, *Organization*, *International Bureau*, and *Director General*, are defined in Article 2 of the Treaty, and that the terms *Treaty*, *Chapter*, *Article*, *applicant*, *agent*, and *signature*, are given certain interpretations in Rules 1 and 2 of the Regulations.

Notes on Rule 1: Abbreviated Expressions

In general: Article 58(1)(iii)

1.1 –

Notes on Rule 2: Interpretation of Certain Words

In general: Article 58(1)(iii)

2.1 Provisions concerning communications and transmittals between the applicant on the one hand and the receiving Office, the designated Office, the elected Office, the International Bureau, the International Searching Authority and the International Preliminary Examining Authority on the other hand are among the provisions where the agent (or representative) may be substituted for the applicant. The international application may be signed by the agent rather than the applicant (see Notes on Article 4(1) and the text of Article 27(2)(ii)). The amendments under Articles 19(1), 28(1), 34(2), and 41(1) may be filed by the agent rather than the applicant.

Among the provisions in the case of which the said substitution is not conceivable because of the wording or the nature of the provision, or the context in which the word is used, are not only provisions referring to the applicant’s residence or nationality, but also provisions referring to his name and address and provisions dealing with the question of whether the applicant is the inventor.

2.2 “Agent”

Whenever the word “agent” is used, it shall be construed as meaning any person who has the right to practice before international authorities as defined in Article 49 and, unless the contrary clearly follows from the wording or the nature of the provision, or the context in which the word is used, also the common representative referred to in Rule 4.8.

2.3 “Signature”

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

PART B RULES CONCERNING CHAPTER I OF THE TREATY

Rule 3 The Request (Form)

3.1 Printed Form

The request shall be made on a printed form.

3.2 Availability of Forms

Copies of the printed form shall be furnished free of charge to the applicants by the receiving Office, or, if the receiving Office so desires, by the International Bureau.

3.3 Check List

(a) The printed form shall contain a list which, when filled in, will show:

(i) the total number of sheets constituting the international application and the number of the sheets of each element of the international application (request, description, claims, drawings, abstract);

(ii) whether or not the international application as filed is accompanied by a power of attorney (i.e., a document appointing an agent or a common representative), a priority document, a receipt for the fees paid or a check for the payment of the fees, an international or an international-type search report, a document in evidence of the fact that the applicant is the successor in title of the inventor, and any other document (to be specified in the check list);

(iii) the number of that figure of the drawings which the applicant suggests should accompany the abstract when the abstract is published on the front page of the pamphlet and in the Gazette; in exceptional cases, the applicant may suggest more than one figure.

2.3	Persons having the right to practice before international authorities – that is, before the International Bureau and the International Searching and Preliminary Examining Authorities – are attorneys, patent agents and any other persons who have the right to practice before the national Office with which the international application was filed (see Article 49). Rule 4.8 deals with the representation of several applicants who have not appointed a common agent.	3.2	–
2.3	In Japan, a seal rather than a signature is required in certain cases.	3.3(a)(i)	As to the request, see Rules 3 and 4; as to the description, Rule 5; as to the claims, Rule 6; as to the drawings, Rule 7; as to the abstract, Rule 8.
		3.3(a)(ii)	As to the power of attorney, see Rule 90.3; as to the priority document, Rule 17; as to fees, Rules 14, 15 and 16.
		3.3(a)(iii)	As to the pamphlet, see Rule 48; as to the Gazette, Rule 86.

Notes on Rule 3: The Request (Form)

In general: Articles 3(2); 4; 27(1)

3.1 –

(b) The list shall be filled in by the applicant, failing which the receiving Office shall fill it in and make the necessary annotations, except that the number referred to in paragraph (a)(iii) shall not be filled in by the receiving Office.

3.4 Particulars

Subject to Rule 3.3, particulars of the printed form shall be prescribed by the Administrative Instructions.

Rule 4 The Request (Contents)

4.1 Mandatory and Optional Contents; Signature

- (a) The request shall contain:
- (i) a petition,
 - (ii) the title of the invention,
 - (iii) indications concerning the applicant and the agent, if there is an agent,
 - (iv) the designation of States,
 - (v) indications concerning the inventor where the national law of at least one of the designated States requires that the name of the inventor be furnished at the time of filing a national application.
- (b) The request shall, where applicable, contain:
- (i) a priority claim,
 - (ii) a reference to any earlier international search or to any earlier international-type search,
 - (iii) choices of certain kinds of protection,
 - (iv) an indication that the applicant wishes to obtain a regional patent and the names of the designated States for which he wishes to obtain such a patent,
 - (v) a reference to a parent application or parent patent.
- (c) The request may contain indications concerning the inventor where the national law of none of the designated States requires that the name of the inventor be furnished at the time of filing a national application.
- (d) The request shall be signed.

4.2 The Petition

The petition shall be to the following effect and shall preferably be worded as follows: "The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty."

3.3(b)	–	4.1(b)(ii)	As to the reference to earlier international or international-type searches, see Rule 4.11.
3.4	As to the Administrative Instructions, see Rule 89.	4.1(b)(iii)	As to the choice of certain kinds of protection, see Rule 4.12.
<i>Notes on Rule 4: The Request (Contents)</i>			
In general:	Articles 3(2); 4; 27(1)	4.1(b)(iv)	See Articles 4(1)(ii) and 45.
4.1(a)(i)	As to the petition, see Rule 4.2.	4.1(b)(v)	As to parent applications and parent grants, see Rule 4.13; as to continuation or continuation-in-part, see Rule 4.14.
4.1(a)(ii)	As to the title of the invention, see Rule 4.3.	4.1(c)	See the notes on Rule 4.1(a)(v).
4.1(a)(iii)	As to the indications concerning the applicant, see Rule 4.5, and concerning the agent, see Rule 4.7. As to the names and addresses of both, see Rule 4.4.	4.1(d)	As to the signature, see Rules 2.3 and 4.15.
4.1(a)(iv)	As to the designation of States, see Rule 4.9.	4.2	See Article 4(1)(i).
4.1(a)(v)	As to the indications concerning the inventor, see Rule 4.6. As to the way to indicate his name and address, see Rule 4.4.		
4.1(b)(i)	As to the priority claim, see Rule 4.10.		

4.3 *Title of the Invention*

The title of the invention shall be short (preferably from two to seven words when in English or translated into English) and precise.

4.4 *Names and Addresses*

(a) Names of natural persons shall be indicated by the person's family name and given name(s), the family name being indicated before the given name(s).

(b) Names of legal entities shall be indicated by their full, official designations.

(c) Addresses shall be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address and, in any case, shall consist of all the relevant administrative units up to, and including, the house number, if any. Where the national law of the designated State does not require the indication of the house number, failure to indicate such number shall have no effect in that State. It is recommended to indicate any telegraphic and teletype address and telephone number.

(d) For each applicant, inventor, or agent, only one address may be indicated.

4.5 *The Applicant*

(a) The request shall indicate the name, address, nationality and residence of the applicant or, if there are several applicants, of each of them.

(b) The applicant's nationality shall be indicated by the name of the State of which he is a national.

(c) The applicant's residence shall be indicated by the name of the State of which he is a resident.

4.6 *The Inventor*

(a) Where Rule 4.1(a)(v) applies, the request shall indicate the name and address of the inventor or, if there are several inventors, of each of them.

(b) If the applicant is the inventor, the request, in lieu of the indication under paragraph (a), shall contain a statement to that effect or shall repeat the applicant's name in the space reserved for indicating the inventor.

(c) The request may, for different designated States, indicate different persons as inventors where, in this respect, the requirements of the national laws of the designated States are not the same. In such a case, the request shall contain a separate statement for each designated State or group of States in which a particular person, or the same person, is to be considered the inventor, or in which particular persons, or the same persons, are to be considered the inventors.

4.7 *The Agent*

If agents are designated, the request shall so indicate, and shall state their names and addresses.

-
- 4.3 See Article 4(1)(iv).
- 4.4 See Articles 4(1)(iii) and 11(1)(iii)(c), and Rules 4.16 and 20.4(b).
- 4.5 See Articles 4(1)(iii), 9, and 11(1)(iii)(c), and Rule 20.4(b).
- 4.6 See Article 4(1)(v) and (4). Rule 4.1(a)(v) applies where the national law of at least one of the designated States requires that the name of the inventor be furnished at the time of filing a national application.
- 4.7 See Article 4(1)(iii) and Rule 4.16.

4.8 *Representation of Several Applicants Not Having a Common Agent*

(a) If there is more than one applicant and the request does not refer to an agent representing all the applicants (“a common agent”), the request shall designate one of the applicants who is entitled to file an international application according to Article 9 as their common representative.

(b) If there is more than one applicant and the request does not refer to an agent representing all the applicants and it does not comply with the requirement of designating one of the applicants as provided in paragraph (a), the applicant first named in the request who is entitled to file an international application according to Article 9 shall be considered the common representative.

4.9 *Designation of States*

Contracting States shall be designated in the request by their names.

4.10 *Priority Claim*

(a) The declaration referred to in Article 8(1) shall be made in the request; it shall consist of a statement to the effect that the priority of an earlier application is claimed and shall indicate:

(i) when the earlier application is not a regional or an international application, the country in which it was filed; when the earlier application is a regional or an international application, the country or countries for which it was filed,

(ii) the date on which it was filed,

(iii) the number under which it was filed, and

(iv) when the earlier application is a regional or an international application, the national Office or intergovernmental organization with which it was filed.

(b) If the request does not indicate both

(i) when the earlier application is not a regional or an international application, the country in which it was filed; when the earlier application is a regional or an international application, at least one country for which it was filed, and

(ii) the date on which it was filed,

the priority claim shall, for the purposes of the procedure under the Treaty, be considered not to have been made.

(c) If the application number of the earlier application is not indicated in the request but is furnished by the applicant to the International Bureau prior to the expiration of the 16th month from the priority date, it shall be considered by all designated States to have been furnished in time. If it is furnished after the expiration of that time limit, the International Bureau shall inform the applicant and the designated Offices of the date on which the said number was furnished to it. The International Bureau shall indicate that date in the international publication of the international application, or, if, at the time of the international publication, the said number has not been furnished to it, shall indicate that fact in the international publication.

4.8(a)	The following persons are entitled to file an international application under Article 9: any resident of a State party to the PCT; any national of a State party to the PCT; residents and nationals of any State party to the Paris Convention but not party to the PCT where the Assembly of the International Patent Cooperation Union has decided that the residents and nationals of such State may file international applications. Article 9 is further clarified by Rule 18.	4.8(b) 4.9 4.10(a) 4.10(b) 4.10(c)	See the preceding note. See Article 4(1)(ii) and Rule 4.16(b). As to Article 8(1), see the note on Rule 17.1(a). The said Article is further clarified by Rule 17. – –
--------	--	--	--

(d) If the filing date of the earlier application as indicated in the request precedes the international filing date by more than one year, the receiving Office, or, if the receiving Office has failed to do so, the International Bureau, shall invite the applicant to ask either for the cancellation of the declaration made under Article 8(1) or, if the date of the earlier application was indicated erroneously, for the correction of the date so indicated. If the applicant fails to act accordingly within 1 month from the date of the invitation, the declaration made under Article 8(1) shall be cancelled *ex officio*. The receiving Office effecting the correction or cancellation shall notify the applicant accordingly and, if copies of the international application have already been sent to the International Bureau and the International Searching Authority, that Bureau and that Authority. If the correction or cancellation is effected by the International Bureau, the latter shall notify the applicant and the International Searching Authority accordingly.

(e) Where the priorities of several earlier applications are claimed, the provisions of paragraphs (a) to (d) shall apply to each of them.

4.11 *Reference to Earlier International or International-Type Search*

If an international or international-type search has been requested on an application under Article 15(5), the request may state that fact and identify the application (or its translation, as the case may be) by country, date and number, and the request for the said search by date and, if available, number.

4.12 *Choice of Certain Kinds of Protection*

(a) If the applicant wishes his international application to be treated, in any designated State, as an application not for a patent but for the grant of any of the other kinds of protection specified in Article 43, he shall so indicate in the request. For the purposes of this paragraph, Article 2(ii) shall not apply.

(b) In the case provided for in Article 44, the applicant shall indicate the two kinds of protection sought, or, if one of two kinds of protection is primarily sought, he shall indicate which kind is sought primarily and which kind is sought subsidiarily.

4.13 *Identification of Parent Application or Parent Grant*

If the applicant wishes his international application to be treated, in any designated State, as an application for a patent or certificate of addition, inventor's certificate of addition, or utility certificate of addition, he shall identify the parent application or the parent patent, parent inventor's certificate, or parent utility certificate to which the patent or certificate of addition, inventor's certificate of addition, or utility certificate of addition, if granted, relates. For the purposes of this paragraph, Article 2(ii) shall not apply.

4.10(d)	See the note on Rule 4.10(a).
4.10(e)	—
4.11	—
4.12	See Articles 4(3), 43, 44. The other kinds of protection specified in Article 43 are inventors' certificates, utility certificates, utility models, patents of addition, certificates of addition, inventors' certificates of addition, and utility certificates of addition. The case provided for in Article 44 is the case where the national law of the designated or elected State permits an international application to be for two kinds of protection (for example, for a patent and a utility model).
4.13	—

4.14 *Continuation or Continuation-in-Part*

If the applicant wishes his international application to be treated, in any designated State, as an application for a continuation or a continuation-in-part of an earlier application, he shall so indicate in the request and shall identify the parent application involved.

4.15 *Signature*

The request shall be signed by the applicant.

4.16 *Transliteration or Translation of Certain Words*

(a) Where any name or address is written in characters other than those of the Latin alphabet, the same shall also be indicated in characters of the Latin alphabet either as a mere transliteration or through translation into English. The applicant shall decide which words will be merely transliterated and which words will be so translated.

(b) The name of any country written in characters other than those of the Latin alphabet shall also be indicated in English.

4.17 *No Additional Matter*

(a) The request shall contain no matter other than that specified in Rules 4.1 to 4.16.

(b) If the request contains matter other than that specified in Rules 4.1 to 4.16, the receiving Office shall *ex officio* delete the additional matter.

Rule 5 The Description

5.1 *Manner of the Description*

(a) The description shall first state the title of the invention as appearing in the request and shall:

- (i) specify the technical field to which the invention relates;
- (ii) indicate the background art which, as far as known to the applicant, can be regarded as useful for the understanding, searching and examination of the invention, and, preferably, cite the documents reflecting such art;
- (iii) disclose the invention, as claimed, in such terms that the technical problem (even if not expressly stated as such) and its solution can be understood, and state the advantageous effects, if any, of the invention with reference to the background art;
- (iv) briefly describe the figures in the drawings, if any;
- (v) set forth at least the best mode contemplated by the applicant for carrying out the invention claimed; this shall be done in terms of examples, where appropriate, and with reference to the drawings, if any; where the national law of the designated State does not require the description of the best mode but is satisfied with the description of any mode (whether it is the best contemplated or not), failure to describe the best mode contemplated shall have no effect in that State;

4.14	–
4.15	–
4.16	–
4.17	–

Notes on Rule 5: The Description

In general: Articles 3(2); 5; 27(1); Rule 88.2(i)

5.1(a)(i)	
to (v)	–

(vi) indicate explicitly, when it is not obvious from the description or nature of the invention, the way in which the invention is capable of exploitation in industry and the way in which it can be made and used, or, if it can only be used, the way in which it can be used; the term "industry" is to be understood in its broadest sense as in the Paris Convention for the Protection of Industrial Property.

(b) The manner and order specified in paragraph (a) shall be followed except when, because of the nature of the invention, a different manner or a different order would result in a better understanding and a more economic presentation.

(c) Subject to the provisions of paragraph (b), each of the parts referred to in paragraph (a) shall preferably be preceded by an appropriate heading as suggested in the Administrative Instructions.

Rule 6 The Claims

6.1 *Number and Numbering of Claims*

(a) The number of the claims shall be reasonable in consideration of the nature of the invention claimed.

(b) If there are several claims, they shall be numbered consecutively in arabic numerals.

(c) The method of numbering in the case of the amendment of claims shall be governed by the Administrative Instructions.

6.2 *References to Other Parts of the International Application*

(a) Claims shall not, except where absolutely necessary, rely, in respect of the technical features of the invention, on references to the description or drawings. In particular, they shall not rely on such references as: "as described in part ... of the description," or "as illustrated in figure... of the drawings."

(b) Where the international application contains drawings, the technical features mentioned in the claims shall preferably be followed by the reference signs relating to such features. When used, the reference signs shall preferably be placed between parentheses. If inclusion of reference signs does not particularly facilitate quicker understanding of a claim, it should not be made. Reference signs may be removed by a designated Office for the purposes of publication by such Office.

5.1(a)(vi) Article 1(3) of the Stockholm Act of the Paris Convention provides that "Industrial property shall be understood in the broadest sense and shall apply not only to industry and commerce proper, but likewise to agricultural and extractive industries and to all manufactured or natural products, for example, wines, grain, tobacco leaf, fruit, cattle, minerals, mineral waters, beer, flowers, and flour."

5.1(b) —

5.1(c) As to the Administrative Instructions, see Rule 89.

Notes on Rule 6: The Claims

In general: Articles 3(2); 6; 27(1); Rule 88.2(ii)

6.1(a) —

6.1(b) —

6.1(c) As to the Administrative Instructions, see Rule 89.

6.2 —

6.3 *Manner of Claiming*

(a) The definition of the matter for which protection is sought shall be in terms of the technical features of the invention.

(b) Whenever appropriate, claims shall contain:

(i) a statement indicating those technical features of the invention which are necessary for the definition of the claimed subject matter but which, in combination, are part of the prior art,

(ii) a characterizing portion – preceded by the words “characterized in that,” “characterized by,” “wherein the improvement comprises,” or any other words to the same effect – stating concisely the technical features which, in combination with the features stated under (i), it is desired to protect.

(c) Where the national law of the designated State does not require the manner of claiming provided for in paragraph (b), failure to use that manner of claiming shall have no effect in that State provided the manner of claiming actually used satisfies the national law of that State.

6.4 *Dependent Claims*

(a) Any claim which includes all the features of one or more other claims (claim in dependent form, hereinafter referred to as “dependent claim”) shall do so by a reference, if possible at the beginning, to the other claim or claims and shall then state the additional features claimed. Any dependent claim which refers to more than one other claim (“multiple dependent claim”) shall refer to such claims in the alternative only. Multiple dependent claims shall not serve as a basis for any other multiple dependent claim.

(b) Any dependent claim shall be construed as including all the limitations contained in the claim to which it refers or, if the dependent claim is a multiple dependent claim, all the limitations contained in the particular claim in relation to which it is considered.

(c) All dependent claims referring back to a single previous claim, and all dependent claims referring back to several previous claims, shall be grouped together to the extent and in the most practical way possible.

6.5 *Utility Models*

Any designated State in which the grant of a utility model is sought on the basis of an international application may, instead of Rules 6.1 to 6.4, apply in respect of the matters regulated in those Rules the provisions of its national law concerning utility models once the processing of the international application has started in that State, provided that the applicant shall be allowed at least 2 months from the expiration of the time limit applicable under Article 22 to adapt his application to the requirements of the said provisions of the national law.

Rule 7 **The Drawings**

7.1 *Flow Sheets and Diagrams*

Flow sheets and diagrams are considered drawings.

6.3	–
6.4	–
6.5	The time limit under Article 22 is normally 20 months from the priority date.

Notes on Rule 7: The Drawings

In general: Articles 3(2); 7; 27(1)

7.1 –

7.2 *Time Limit*

The time limit referred to in Article 7(2)(ii) shall be reasonable under the circumstances of the case and shall, in no case, be shorter than 2 months from the date of the written invitation requiring the filing of drawings or additional drawings under the said provision.

Rule 8 The Abstract

8.1 *Contents and Form of the Abstract*

(a) The abstract shall consist of the following:

(i) a summary of the disclosure as contained in the description, the claims, and any drawings; the summary shall indicate the technical field to which the invention pertains and shall be drafted in a way which allows the clear understanding of the technical problem, the gist of the solution of that problem through the invention, and the principal use or uses of the invention;

(ii) where applicable, the chemical formula which, among all the formulae contained in the international application, best characterizes the invention.

(b) The abstract shall be as concise as the disclosure permits (preferably 50 to 150 words if it is in English or when translated into English).

(c) The abstract shall not contain statements on the alleged merits or value of the claimed invention or on its speculative application.

(d) Each main technical feature mentioned in the abstract and illustrated by a drawing in the international application shall be followed by a reference sign, placed between parentheses.

8.2 *Failure to Suggest a Figure to be Published with the Abstract*

If the applicant fails to make the indication referred to in Rule 3.3(a)(iii), or if the International Searching Authority finds that a figure or figures other than that figure or those figures suggested by the applicant would, among all the figures of all the drawings, better characterize the invention, it shall indicate the figure or figures which it so considers. Publications by the International Bureau shall then use the figure or figures so indicated by the International Searching Authority. Otherwise, the figure or figures suggested by the applicant shall be used in the said publications.

8.3 *Guiding Principles in Drafting*

The abstract shall be so drafted that it can efficiently serve as a scanning tool for purposes of searching in the particular art, especially by assisting the scientist, engineer or researcher in formulating an opinion on whether there is a need for consulting the international application itself.

7.2 The time limit referred to in Article 7(2)(ii) concerns the case where the designated Office requires the applicant to file drawings which are not necessary for the understanding of the invention (drawings necessary for the understanding of the invention must be filed in any case, see Article 7(1)). The filing of such drawings may be required only where the nature of the invention admits of illustration by drawings.

8.2 The indication referred to in Rule 3.3(a)(iii) is the number of that figure of the drawings which the applicant suggests should accompany the abstract when the abstract is published on the front page of the pamphlet and in the Gazette.

8.3 —

Notes on Rule 8: The Abstract

In general: Articles 3(2), (3); 27(1)

8.1 —

Rule 9 **Expressions, Etc., Not To Be Used**

9.1 *Definition*

The international application shall not contain:

- (i) expressions or drawings contrary to morality;
- (ii) expressions or drawings contrary to public order;
- (iii) statements disparaging the products or processes of any particular person other than the applicant, or the merits or validity of applications or patents of any such person (mere comparisons with the prior art shall not be considered disparaging *per se*);
- (iv) any statement or other matter obviously irrelevant or unnecessary under the circumstances.

9.2 *Noting of Lack of Compliance*

The receiving Office and the International Searching Authority may note lack of compliance with the prescriptions of Rule 9.1 and may suggest to the applicant that he voluntarily correct his international application accordingly. If the lack of compliance was noted by the receiving Office, that Office shall inform the competent International Searching Authority and the International Bureau; if the lack of compliance was noted by the International Searching Authority, that Authority shall inform the receiving Office and the International Bureau.

9.3 *Reference to Article 21(6)*

“Disparaging statements,” referred to in Article 21(6), shall have the meaning as defined in Rule 9.1(iii).

Rule 10 **Terminology and Signs**

10.1 *Terminology and Signs*

(a) Units of weights and measures shall be expressed in terms of the metric system, or also expressed in such terms if first expressed in terms of a different system.

(b) Temperatures shall be expressed in degrees centigrade, or also expressed in degrees centigrade if first expressed in a different manner.

(c) Density shall be expressed in metric units.

(d) For indications of heat, energy, light, sound, and magnetism, as well as for mathematical formulae and electrical units, the rules of international practice shall be observed; for chemical formulae, the symbols, atomic weights, and molecular formulae, in general use, shall be employed.

(e) In general, only such technical terms, signs and symbols should be used as are generally accepted in the art.

(f) When the international application or its translation is in English or Japanese, the beginning of any decimal fraction shall be marked by a period, whereas, when the international application or its translation is in a language other than English or Japanese, it shall be marked by a comma.

Notes on Rule 9: Expressions, Etc., Not To Be Used

In general: Articles 3(2); 21(6)

9.1 –

9.2 –

9.3 Under Article 21(6), the International Bureau may omit from its publications disparaging statements appearing in the international application.

Notes on Rule 10: Terminology and Signs

In general: Article 3(2)

10.1 –

10.2 *Consistency*

The terminology and the signs shall be consistent throughout the international application.

Rule 11 **Physical Requirements of the International Application**

11.1 *Number of Copies*

(a) Subject to the provisions of paragraph (b), the international application and each of the documents referred to in the check list (Rule 3.3(a)(ii)) shall be filed in one copy.

(b) Any receiving Office may require that the international application and any of the documents referred to in the check list (Rule 3.3(a)(ii)), except the receipt for the fees paid or the check for the payment of the fees, be filed in two or three copies. In that case, the receiving Office shall be responsible for verifying the identity of the second and the third copies with the record copy.

11.2 *Fitness for Reproduction*

(a) All elements of the international application (i.e., the request, the description, the claims, the drawings, and the abstract) shall be so presented as to admit of direct reproduction by photography, electrostatic processes, photo offset, and microfilming, in any number of copies.

(b) All sheets shall be free from creases and cracks; they shall not be folded.

(c) Only one side of each sheet shall be used.

(d) Subject to Rule 11.13(j), each sheet shall be used in an upright position (i.e., the short sides at the top and bottom).

11.3 *Material to be Used*

All elements of the international application shall be on paper which shall be flexible, strong, white, smooth, non-shiny, and durable.

11.4 *Separate Sheets, Etc.*

(a) Each element (request, description, claims, drawings, abstract) of the international application shall commence on a new sheet.

(b) All sheets of the international application shall be so connected that they can be easily turned when consulted, and easily separated and joined again if they have been separated for reproduction purposes.

11.5 *Size of Sheets*

The size of the sheets shall be A4 (29.7 cm x 21 cm). However, any receiving Office may accept international applications on sheets of other sizes provided that the record copy, as transmitted to the International Bureau, and, if the competent International Searching Authority so desires, the search copy, shall be of A4 size

10.2 —

Notes on Rule 11: Physical Requirements of the International Application

In general: Article 3(4)(ii)

11.1 —

11.2 —

11.3 —

11.4 —

11.5 —

11.6 *Margins*

(a) The minimum margins of the sheets containing the request, the description, the claims, and the abstract, shall be as follows:

- top of first sheet, except that of the request: 8 cm
- top of other sheets: 2 cm
- left side: 2.5 cm
- right side: 2 cm
- bottom: 2 cm

(b) The recommended maximum, for the margins provided for in paragraph (a), is as follows:

- top of first sheet, except that of the request: 9 cm
- top of other sheets: 4 cm
- left side: 4 cm
- right side: 3 cm
- bottom: 3 cm

(c) On sheets containing drawings, the surface usable shall not exceed 26.2 cm x 17.0 cm. The sheets shall not contain frames around the usable or used surface. The minimum margins shall be as follows:

- top: 2.5 cm.
- left side: 2.5 cm
- right side: 1.5 cm
- bottom: 1.0 cm

(d) The margins referred to in paragraphs (a) to (c) apply to A4-size sheets, so that, even if the receiving Office accepts other sizes, the A4-size record copy and, when so required, the A4-size search copy shall leave the aforesaid margins.

(e) The margins of the international application, when submitted, must be completely blank.

11.7 *Numbering of Sheets*

(a) All the sheets contained in the international application shall be numbered in consecutive arabic numerals.

(b) The numbers shall be placed at the top of the sheet, in the middle, but not in the margin.

11.8 *Numbering of Lines*

(a) It is strongly recommended to number every fifth line of each sheet of the description, and of each sheet of claims.

(b) The numbers should appear on the left side, to the right of the margin.

11.9 *Writing of Text Matter*

(a) The request, the description, the claims and the abstract shall be typed or printed.

(b) Only graphic symbols and characters, chemical or mathematical formulae, and certain characters in the Japanese language may, when necessary, be written by hand or drawn.

(c) The typing shall be 1½-spaced.

(d) All text matter shall be in characters the capital letters of which are not less than 0.21 cm high, and shall be in a dark, indelible color, satisfying the requirements specified in Rule 11.2.

(e) As far as the spacing of the typing and the size of the characters are concerned, paragraphs (c) and (d) shall not apply to texts in the Japanese language.

11.6	–
11.7	–
11.8	–
11.9	–

11.10 *Drawings, Formulae, and Tables, in Text Matter*

(a) The request, the description, the claims and the abstract shall not contain drawings.

(b) The description, the claims and the abstract may contain chemical or mathematical formulae.

(c) The description and the abstract may contain tables; any claim may contain tables only if the subject matter of the claim makes the use of tables desirable.

11.11 *Words in Drawings*

(a) The drawings shall not contain text matter, except a single word or words, when absolutely indispensable, such as "water," "steam," "open," "closed," "section on AB," and, in the case of electric circuits and block schematic or flow sheet diagrams, a few short catch words indispensable for understanding.

(b) Any words used shall be so placed that, if translated, they may be pasted over without interfering with any lines of the drawings.

11.12 *Alterations, Etc.*

Each sheet shall be reasonably free from erasures and shall be free from alterations, overwritings, and interlineations. Non-compliance with this Rule may be authorized, in exceptional cases, if the authenticity of the content is not in question and the requirements for good reproduction are not in jeopardy.

11.13 *Special Requirements for Drawings*

(a) Drawings shall be executed in durable, black or blue, sufficiently dense and dark, uniformly thick and well-defined, lines and strokes without colorings.

(b) Cross-sections shall be indicated by oblique hatching which should not impede the clear reading of the reference signs and leading lines.

(c) The scale of the drawings and the distinctness of their graphical execution shall be such that a photographic reproduction with a linear reduction in size to two-thirds would enable all details to be distinguished without difficulty.

(d) When, in exceptional cases, the scale is given on a drawing, it shall be represented graphically.

(e) All numbers, letters and reference lines, appearing on the drawings, shall be simple and clear. Brackets, circles or inverted commas shall not be used in association with numbers and letters.

(f) All lines in the drawings shall, ordinarily, be drawn with the aid of drafting instruments.

(g) Each element of each figure shall be in proper proportion to each of the other elements in the figure, except where the use of a different proportion is indispensable for the clarity of the figure.

(h) The height of the numbers and letters shall not be less than 0.32 cm. For the lettering of drawings, the Latin and, where customary, the Greek alphabets shall be used.

(i) The same sheet of drawings may contain several figures. Where figures on two or more sheets form in effect a single complete figure, the figures on the several sheets shall be so arranged that the complete figure can be assembled without concealing any part of any of the figures appearing on the various sheets.

11.10	—
11.11	—
11.12	—
11.13	—

(j) The different figures shall be arranged on a sheet or sheets without wasting space, preferably in an upright position, clearly separated from one another.

(k) The different figures shall be numbered in arabic numerals consecutively and independently of the numbering of the sheets.

(l) Reference signs not mentioned in the description shall not appear in the drawings, and vice versa.

(m) The same features, when denoted by reference signs, shall, throughout the international application, be denoted by the same signs.

(n) If the drawings contain a large number of reference signs, it is strongly recommended to attach a separate sheet listing all reference signs and the features denoted by them.

11.14 *Later Documents*

Rules 10, and 11.1 to 11.13, also apply to any document – for example, corrected pages, amended claims – submitted after the filing of the international application.

11.15 *Translations*

No designated Office shall require that the translation of an international application filed with it comply with requirements other than those prescribed for the international application as filed.

Rule 12 Language of the International Application

12.1 *The International Application*

Any international application shall be filed in the language, or one of the languages, specified in the agreement concluded between the International Bureau and the International Searching Authority competent for the international searching of that application, provided that, if the agreement specifies several languages, the receiving Office may prescribe among the specified languages that language in which or those languages in one of which the international application must be filed.

12.2 *Changes in the International Application*

Any changes in the international application, such as amendments and corrections, shall be in the same language as the said application (cf. Rule 66.5).

Rule 13 Unity of Invention

13.1 *Requirement*

The international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept (“requirement of unity of invention”).

11.14	Rule 10 deals with terminology and signs, as well as the consistency of their use.	<i>Notes on Rule 13: Unity of Invention</i>
11.15	See Article 27(1).	In general: Article 3(4)(iii)
<i>Notes on Rule 12: Language of the International Application</i>		13.1 –
In general:	Article 3(4)(i)	
12.1	–	
12.2	–	

13.2 *Claims of Different Categories*

Rule 13.1 shall be construed as permitting, in particular, either of the following two possibilities:

(i) in addition to an independent claim for a given product, the inclusion in the same international application of one independent claim for one process specially adapted for the manufacture of the said product, and the inclusion in the same international application of one independent claim for one use of the said product, or

(ii) in addition to an independent claim for a given process, the inclusion in the same international application of one independent claim for one apparatus or means specifically designed for carrying out the said process.

13.3 *Claims of One and the Same Category*

Subject to Rule 13.1, it shall be permitted to include in the same international application two or more independent claims of the same category (i.e., product, process, apparatus, or use) which cannot readily be covered by a single generic claim.

13.4 *Dependent Claims*

Subject to Rule 13.1, it shall be permitted to include in the same international application a reasonable number of dependent claims, claiming specific forms of the invention claimed in an independent claim, even where the features of any dependent claim could be considered as constituting in themselves an invention.

13.5 *Utility Models*

Any designated State in which the grant of a utility model is sought on the basis of an international application may, instead of Rules 13.1 to 13.4, apply in respect of the matters regulated in those Rules the provisions of its national law concerning utility models once the processing of the international application has started in that State, provided that the applicant shall be allowed at least 2 months from the expiration of the time limit applicable under Article 22 to adapt his application to the requirements of the said provisions of the national law.

Rule 14 The Transmittal Fee

14.1 *The Transmittal Fee*

(a) Any receiving Office may require that the applicant pay a fee to it, for its own benefit, for receiving the international application, transmitting copies to the International Bureau and the competent International Searching Authority, and performing all the other tasks which it must perform in connection with the international application in its capacity of receiving Office ("transmittal fee).

(b) The amount and the due date of the transmittal fee, if any, shall be fixed by the receiving Office.

13.2	—
13.3	—
13.4	—
13.5	The time limit under Article 22 is normally 20 months from the priority date.

Notes on Rule 14: The Transmittal Fee

In general: Article 3(4)(iv); Rule 88.1(i)

14.1 —

Rule 15

The International Fee

15.1 *Basic Fee and Designation Fee*

Each international application shall be subject to the payment of a fee for the benefit of the International Bureau (“international fee”) consisting of

- (i) a “basic fee,” and
- (ii) as many “designation fees” as there are States designated in the international application, provided that, where a regional patent is sought for certain designated States, only one designation fee shall be due for those States.

15.2 *Amounts*

- (a) The amount of the basic fee shall be:
 - (i) if the international application contains not more than 30 sheets: US \$45.00 or 194 Swiss francs,
 - (ii) if the international application contains more than 30 sheets: US \$45.00 or 194 Swiss francs plus US \$1.00 or 4.30 Swiss francs per sheet in excess of 30 sheets.
- (b) The amount of the designation fee shall be:
 - (i) for each designated State or each group of designated States for which the same regional patent is sought which does not require the furnishing of a copy under Article 13: US \$12.00 or 52 Swiss francs,
 - (ii) for each designated State or each group of designated States for which the same regional patent is sought which requires the furnishing of a copy under Article 13: US \$14.00 or 60 Swiss francs.

15.3 *Mode of Payment*

- (a) The international fee shall be collected by the receiving Office.
- (b) The international fee shall be payable in the currency prescribed by the receiving Office, it being understood that, when transferred by the receiving Office to the International Bureau, it shall be freely convertible into Swiss currency.

15.4 *Time of Payment*

- (a) The basic fee shall be due on the date of receipt of the international application. However, any receiving Office may, at its discretion, notify the applicant of any lack of receipt or insufficiency of any amount received, and permit applicants to pay the basic fee later, without loss of the international filing date, provided that:
 - (i) permission shall not be given to pay later than one month after the date of receipt of the international application;
 - (ii) permission may not be subject to any extra charge.
- (b) The designation fee may be paid on the date of receipt of the international application or on any later date but, at the latest, it must be paid before the expiration of one year from the priority date.

Notes on Rule 15: The International Fee

In general: Article 3(4)(iv); 4(2)

15.1	–
15.2	–
15.3	–
15.4	–

15.5 *Partial Payment*

(a) If the applicant specifies the States to which he wishes any amount paid to be applied as designation fee, the amount shall be applied accordingly to the number of States which are covered by the amount in the order specified by the applicant.

(b) If the applicant does not specify any such wish and if the amount or amounts received by the receiving Office are higher than the basic fee and one designation fee but lower than what is due according to the number of the designated States, any amount in excess of the basic fee and one designation fee shall be treated as designation fees for the States following the State first named in the request and in the order in which the States are designated in the request up to and including that designated State for which the total amount of the designation fee is covered by the amount or amounts received.

(c) The designation fee for the first mentioned State belonging to a group of States for which the same regional patent is sought and which is specified under paragraph (a) or which is reached under paragraph (b) shall, for the purposes of the said paragraphs, be considered as covering also the other States of the said group.

15.6 *Refund*

(a) The international fee shall be refunded to the applicant if the determination under Article 11(1) is negative.

(b) In no other case shall the international fee be refunded.

Rule 16 The Search Fee

16.1 *Right to Ask for a Fee*

(a) Each International Searching Authority may require that the applicant pay a fee ("search fee") for its own benefit for carrying out the international search and for performing all other tasks entrusted to International Searching Authorities by the Treaty and these Regulations.

(b) The search fee shall be collected by the receiving Office. It shall be payable in the currency prescribed by that Office, it being understood that, if that currency is not the same as the currency of the State in which the International Searching Authority is located, the search fee, when transferred by the receiving Office to that Authority, shall be freely convertible into the currency of the said State. As to the time of payment of the search fee, Rule 15.4(a) shall apply.

16.2 *Refund*

The search fee shall be refunded to the applicant if the determination under Article 11(1) is negative.

15.5

—

15.6

The determination under Article 11(1) is negative if the purported international application does not comply with any of the requirements listed in that Article (see the note concerning Rule 20.2(a)(i)). See also Rule 20.7 (Negative Determination).

Notes on Rule 16: The Search Fee

In general: Article 3(4)(iv)

16.1(a)

—

16.1(b)

Under Rule 15.4(a), the fee is due on the date of the receipt of the international application,

the receiving Office having the right to give, at the most one month more, to the applicant for paying the fee.

16.2

The determination under Article 11(1) is negative if the purported international application does not comply with any of the requirements listed in that Article (see the note concerning Rule 20.2(a)(i)). See also Rule 20.7 (Negative Determination).

16.3 *Partial Refund*

Where the international application claims the priority of an earlier international application which has been the subject of an international search by the same International Searching Authority, that Authority shall refund the search fee paid in connection with the later international application to the extent and under the conditions provided for in the agreement under Article 16(3)(b), if the international search report on the later international application could wholly or partly be based on the results of the international search effected on the earlier international application.

Rule 17 **The Priority Document**

17.1 *Obligation to Submit Copy of Earlier National Application*

(a) Where the priority of an earlier national application is claimed under Article 8 in the international application, a copy of the said national application, certified by the authority with which it was filed (“the priority document”), shall, unless already filed with the receiving Office, together with the international application, be submitted by the applicant to the International Bureau not later than 16 months after the priority date or, in the case referred to in Article 23(2), not later than at the time the processing or examination is requested.

(b) If the applicant fails to comply with the requirement under paragraph (a), any designated State may disregard the priority claim.

(c) The International Bureau shall record the date on which it received the priority document and shall notify the applicant and the designated Offices accordingly.

17.2 *Availability of Copies*

(a) The International Bureau shall, at the specific request of the designated Office, promptly but not before the expiration of the time limit fixed in Rule 17.1(a), furnish a copy of the priority document to that Office. No such Office shall ask the applicant himself to furnish it with a copy, except where it requires the furnishing of a copy of the priority document together with a certified translation thereof. The applicant shall not be required to furnish a certified translation to the designated Office before the expiration of the applicable time limit under Article 22.

(b) The International Bureau shall not make copies of the priority document available to the public prior to the international publication of the international application.

(c) Paragraphs (a) and (b) shall apply also to any earlier international application whose priority is claimed in the subsequent international application.

16.3 The agreement under Article 16(3)(b) is the agreement between the International Bureau and the International Searching Authority.

Notes on Rule 17: The Priority Document

In general: Article 8

17.1(a) Article 8(1) provides that 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. The case referred to in Article 23(2) is the case where the applicant

expressly requests the designated Office to process or examine his international application prior to the applicable time limit for starting such processing or examination.

17.1(b) –

17.1(c) –

17.2(a) The time limit under Article 22 is normally

20 months from the priority date.

17.2(b) –

17.2(c) –

Rule 18 The Applicant

18.1 *Residence*

(a) Subject to the provisions of paragraph (b), the question whether an applicant is a resident of the Contracting State of which he claims to be a resident shall depend on the national law of that State and shall be decided by the receiving Office.

(b) In any case, possession of a real and effective industrial or commercial establishment in a Contracting State shall be considered residence in that State.

18.2 *Nationality*

(a) Subject to the provisions of paragraph (b), the question whether an applicant is a national of the Contracting State of which he claims to be a national shall depend on the national law of that State and shall be decided by the receiving Office.

(b) In any case, a legal entity constituted according to the national law of a Contracting State shall be considered a national of that State.

18.3 *Several Applicants: Same for All Designated States*

If all the applicants are applicants for the purposes of all designated States, the right to file an international application shall exist if at least one of them is entitled to file an international application according to Article 9.

18.4 *Several Applicants: Different for Different Designated States*

(a) The international application may indicate different applicants for the purposes of different designated States, provided that, in respect of each designated State, at least one of the applicants indicated for the purposes of that State is entitled to file an international application according to Article 9.

(b) If the condition referred to in paragraph (a) is not fulfilled in respect of any designated State, the designation of that State shall be considered not to have been made.

(c) The International Bureau shall, from time to time, publish information on the various national laws in respect of the question who is qualified (inventor, successor in title of the inventor, owner of the invention, or other) to file a national application and shall accompany such information by a warning that the effect of the international application in any designated State may depend on whether the person designated in the international application as applicant for the purposes of that State is a person who, under the national law of that State, is qualified to file a national application.

18.5 *Change in the Person or Name of the Applicant*

Any change in the person or name of the applicant shall, on the request of the applicant or the receiving Office, be recorded by the International Bureau, which shall notify the interested International Searching Authority and the designated Offices accordingly.

Notes on Rule 18: The Applicant

In general: Article 9

18.1 –

18.2 –

18.3 As to the question who is entitled to file an international application according to Article 9, see the note on Rule 4.8(a).

18.4(a) As to Article 9, see the preceding note.

18.4(b) –

18.4(c) –

18.5 See Article 58(1)(iii).

Rule 19 The Competent Receiving Office

19.1 *Where to File*

(a) Subject to the provisions of paragraph (b), the international application shall be filed, at the option of the applicant, with the national Office of or acting for the Contracting State of which the applicant is a resident or with the national Office of or acting for the Contracting State of which the applicant is a national.

(b) Any Contracting State may agree with another Contracting State or any intergovernmental organization that the national Office of the latter State or the intergovernmental organization shall, for all or some purposes, act instead of the national Office of the former State as receiving Office for applicants who are residents or nationals of that former State. Notwithstanding such agreement, the national Office of the former State shall be considered the competent receiving Office for the purposes of Article 15(5).

(c) In connection with any decision made under Article 9(2), the Assembly shall appoint the national Office or the intergovernmental organization which will act as receiving Office for applications of residents or nationals of States specified by the Assembly. Such appointment shall require the previous consent of the said national Office or intergovernmental organization.

19.2 *Several Applicants*

(a) If there are several applicants and they have no common agent, their common representative within the meaning of Rule 4.8 shall, for the purposes of the application of Rule 19.1, be considered the applicant.

(b) If there are several applicants and they have a common agent, the applicant first named in the request who is entitled to file an international application according to Article 9 shall, for the purposes of the application of Rule 19.1, be considered the applicant.

19.3 *Publication of Fact of Delegation of Duties of Receiving Office*

(a) Any agreement referred to in Rule 19.1(b) shall be promptly notified to the International Bureau by the Contracting State which delegates the duties of the receiving Office to the national Office of or acting for another Contracting State or an intergovernmental organization.

(b) The International Bureau shall, promptly upon receipt, publish the notification in the Gazette.

Notes on Rule 19: The Competent Receiving Office

In general: Article 10

- 19.1(a) –
- 19.1(b) Article 15(5) deals with an international-type search carried out on a national application.
- 19.1(c) Under Article 9(2), the Assembly may decide to allow the residents and the nationals of any country party to the Paris Convention which is not party to the PCT to file international applications.
- 19.2(a) Rule 4.8 deals with the representation of several applicants not having a common agent.
- 19.2(b) As to Article 9, see the note on Rule 4.8(a).
- 19.3(a) –
- 19.3(b) As to the Gazette, see Rule 86.

Rule 20

Receipt of the International Application

20.1 *Date and Number*

(a) Upon receipt of papers purporting to be an international application, the receiving Office shall indelibly mark the date of actual receipt in the space provided for that purpose in the request form of each copy received and one of the numbers assigned by the International Bureau to that Office on each sheet of each copy received.

(b) The place on each sheet where the date or number shall be marked, and other details, shall be specified in the Administrative Instructions.

20.2 *Receipt on Different Days*

(a) In cases where all the sheets pertaining to the same purported international application are not received on the same day by the receiving Office, that Office shall correct the date marked on the request (still leaving legible, however, the earlier date or dates already marked) so that it indicates the day on which the papers completing the international application were received, provided that

(i) where no invitation under Article 11(2)(a) to correct was sent to the applicant, the said papers are received within 30 days from the date on which sheets were first received;

(ii) where an invitation under Article 11(2)(a) to correct was sent to the applicant, the said papers are received within the applicable time limit under Rule 20.6;

(iii) in the case of Article 14(2), the missing drawings are received within 30 days from the date on which the incomplete papers were filed;

(iv) the absence or later receipt of any sheet containing the abstract or part thereof shall not, in itself, require any correction of the date marked on the request.

(b) Any sheet received on a date later than the date on which sheets were first received shall be marked by the receiving Office with the date on which it was received.

20.3 *Corrected International Application*

In the case referred to in Article 11(2)(b), the receiving Office shall correct the date marked on the request (still leaving legible, however, the earlier date or dates already marked) so that it indicates the day on which the last required correction was received.

Notes on Rule 20: Receipt of the International Application

In general: Articles 10; 11(1), (2)

20.1(a) –

20.1(b) As to the Administrative Instructions, see Rule 89.

20.2(a)(i) The invitation to correct, referred to in Article 11(2)(a) is issued if the receiving Office finds that the international application did not, at the time of receipt, fulfill the requirements listed in Article 11(1). Those requirements are that: (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.

20.2(a)(ii) As to the invitation to correct, see the preceding notes.

20.2(a)(iii) The case referred to in Article 14(2) is the case where the international application refers to drawings which, in fact, are not included in the application.

20.2(a)(iv) –

20.2(b) –

20.3 The case referred to in Article 11(2)(b) is the case where the applicant complies with the invitation to correct.

20.4 *Determination under Article 11(1)*

(a) Promptly after receipt of the papers purporting to be an international application, the receiving Office shall determine whether the papers comply with the requirements of Article 11(1).

(b) For the purposes of Article 11(1)(iii)(c), it shall be sufficient to indicate the name of the applicant in a way which allows his identity to be established even if the name is misspelled, the given names are not fully indicated, or, in the case of legal entities, the indication of the name is abbreviated or incomplete.

20.5 *Positive Determination*

(a) If the determination under Article 11(1) is positive, the receiving Office shall stamp in the space provided for that purpose in the request form the name of the receiving Office and the words "PCT International Application," or "Demande internationale PCT." If the official language of the receiving Office is neither English nor French, the words "International Application" or "Demande internationale" may be accompanied by a translation of these words in the official language of the receiving Office.

(b) The copy whose request sheet has been so stamped shall be the record copy of the international application.

(c) The receiving Office shall promptly notify the applicant of the international application number and the international filing date.

20.6 *Invitation to Correct*

(a) The invitation to correct under Article 11(2) shall specify the requirement provided for under Article 11(1) which, in the opinion of the receiving Office, has not been fulfilled.

(b) The receiving Office shall promptly mail the invitation to the applicant and shall fix a time limit, reasonable under the circumstances of the case, for filing the correction. The time limit shall not be less than 10 days, and shall not exceed 1 month, from the date of the invitation. If such time limit expires after the expiration of 1 year from the filing date of any application whose priority is claimed, the receiving Office may call this circumstance to the attention of the applicant.

20.7 *Negative Determination*

If the receiving Office does not, within the prescribed time limit, receive a reply to its invitation to correct, or if the correction offered by the applicant still does not fulfill the requirements provided for under Article 11(1), it shall:

20.4(a)	As to the requirements under Article 11(1), see the notes on Rule 20.2(a)(i).	20.7	As to the requirements provided for under Article 11(1), see the notes on Rule 20.2(a)(i). Rule 93.1 deals with the keeping of records and files by the receiving Office. Article 25(1) deals with the review, by the designated Offices, of certain findings of the receiving Office or of the International Bureau.
20.4(b)	Article 11(1)(iii)(c) requires that the international application contain "the name of the applicant, as prescribed."		
20.5(a)	The determination under Article 11(1) is positive, and results in the according of an international filing date, if the requirements under Article 11(1) (see the notes on Rule 20.2(a)(i)) are fulfilled.		
20.5(b)	–		
20.5(c)	–		
20.6(a)	The invitation to correct under Article 11(2) refers to the correction of the international application. As to the requirements provided for under Article 11(1), see the notes on Rule 20.2(a)(i).		
20.6(b)	–		

- (i) promptly notify the applicant that his application is not and will not be treated as an international application and shall indicate the reasons therefor,
- (ii) notify the International Bureau that the number it has marked on the papers will not be used as an international application number,
- (iii) keep the papers constituting the purported international application and any correspondence relating thereto as provided in Rule 93.1, and
- (iv) send a copy of the said papers to the International Bureau where, pursuant to a request by the applicant under Article 25(1), the International Bureau needs such a copy and specially asks for it.

20.8 *Error by the Receiving Office*

If the receiving Office later discovers, or on the basis of the applicant's reply realizes, that it has erred in issuing an invitation to correct since the requirements provided for under Article 11(1) were fulfilled when the papers were received, it shall proceed as provided in Rule 20.5.

20.9 *Certified Copy for the Applicant*

Against payment of a fee, the receiving Office shall furnish to the applicant, on request, certified copies of the international application as filed and of any corrections thereto.

Rule 21 Preparation of Copies

21.1 *Responsibility of the Receiving Office*

- (a) Where the international application is required to be filed in one copy, the receiving Office shall be responsible for preparing the home copy and the search copy required under Article 12(1).
- (b) Where the international application is required to be filed in two copies, the receiving Office shall be responsible for preparing the home copy.
- (c) If the international application is filed in less than the number of copies required under Rule 11.1(b), the receiving Office shall be responsible for the prompt preparation of the number of copies required, and shall have the right to fix a fee for performing that task and to collect such fee from the applicant.

20.8 As to the requirements provided for under Article 11(1), see the notes on Rule 20.2(a)(i).

20.9 –

Notes on Rule 21: Preparation of Copies

In general: Articles 10; 12(1)

21.1(a) The “home copy” is the copy to be kept by the receiving Office; the “search copy” is the copy transmitted to the International Searching Authority (see Article 12(1)).

21.1(b) –

21.1(c) Under Rule 11.1(b), the receiving Office decides whether any international application must be filed in one, two, or three copies.

Rule 22
Transmittal of the Record Copy

22.1 *Procedure*

(a) If the determination under Article 11(1) is positive, and unless prescriptions concerning national security prevent the international application from being treated as such, the receiving Office shall transmit the record copy to the International Bureau. Such transmittal shall be effected promptly after receipt of the international application or, if a check to preserve national security must be performed, as soon as the necessary clearance has been obtained. In any case, the receiving Office shall transmit the record copy in time for it to reach the International Bureau by the expiration of the 13th month from the priority date. If the transmittal is effected by mail, the receiving Office shall mail the record copy not later than 5 days prior to the expiration of the 13th month from the priority date.

(b) If the applicant is not in possession of the notification of receipt sent by the International Bureau under Rule 24.2(a) by the expiration of 13 months and 10 days from the priority date, he shall have the right to ask the receiving Office to give him the record copy or, should the receiving Office allege that it has transmitted the record copy to the International Bureau, a certified copy based on the home copy.

(c) The applicant may transmit the copy he has received under paragraph (b) to the International Bureau. Unless the record copy transmitted by the receiving Office has been received by the International Bureau before the receipt by that Bureau of the copy transmitted by the applicant, the latter copy shall be considered the record copy.

22.2 *Alternative Procedure*

(a) Notwithstanding the provisions of Rule 22.1, any receiving Office may provide that the record copy of any international application filed with it shall be transmitted, at the option of the applicant, by the receiving Office or through the applicant. The receiving Office shall inform the International Bureau of the existence of any such provision.

(b) The applicant shall exercise the option through a written notice, which he shall file together with the international application. If he fails to exercise the said option, the applicant shall be considered to have opted for transmittal by the receiving Office.

(c) Where the applicant opts for transmittal by the receiving Office, the procedure shall be the same as that provided for in Rule 22.1.

Notes on Rule 22: Transmittal of the Record Copy

In general: Articles 10; 12

22.1(a) The determination under Article 11(1) is positive and results in the according of an international filing date if the requirements under Article 11(1) (see the notes on Rule 20.2(a)(i)) are fulfilled.

22.1(b) Under Rule 24.2(a), the International Bureau must promptly notify the applicant of the fact and the date of receipt of the record copy.

22.1(c) –

22.2 See Rule 88.1(ii).

(d) Where the applicant opts for transmittal through him, he shall indicate in the notice referred to in paragraph (b) whether he wishes to collect the record copy at the receiving Office or wishes the receiving Office to mail the record copy to him. If the applicant expresses the wish to collect the record copy, the receiving Office shall hold that copy at the disposal of the applicant as soon as the clearance referred to in Rule 22.1(a) has been obtained and, in any case, including the case where a check for such clearance must be performed, not later than 10 days before the expiration of 13 months from the priority date. If, by the expiration of the time limit for receipt of the record copy by the International Bureau, the applicant has not collected that copy, the receiving Office shall notify the International Bureau accordingly. If the applicant expresses the wish that the receiving Office mail the record copy to him or fails to express the wish to collect the record copy, the receiving Office shall mail that copy to the applicant as soon as the clearance referred to in Rule 22.1(a) has been obtained and, in any case, including the case where a check for such clearance must be performed, not later than 15 days before the expiration of 13 months from the priority date.

(e) Where the receiving Office does not hold the record copy at the disposal of the applicant by the date fixed in paragraph (d), or where, after having asked for the record copy to be mailed to him, the applicant has not received that copy at least 10 days before the expiration of 13 months from the priority date, the applicant may transmit a copy of his international application to the International Bureau. This copy ("provisional record copy") shall be replaced by the record copy or, if the record copy has been lost, by a substitute record copy certified by the receiving Office on the basis of the home copy, as soon as practicable and, in any case, before the expiration of 14 months from the priority date.

22.3 *Time Limit under Article 12(3)*

(a) The time limit referred to in Article 12(3) shall be:

(i) where the procedure under Rule 22.1 or Rule 22.2(c) applies, 14 months from the priority date;

(ii) where the procedure under Rule 22.2(d) applies, 13 months from the priority date, except that, where a provisional record copy is filed under Rule 22.2(e), it shall be 13 months from the priority date for the filing of the provisional record copy, and 14 months from the priority date for the filing of the record copy.

(b) Article 48(1) and Rule 82 shall not apply to the transmittal of the record copy. Article 48(2) remains applicable.

22.4 *Statistics Concerning Non-Compliance with Rules 22.1 and 22.2*

The number of instances in which, according to the knowledge of the International Bureau, any receiving Office has not complied with the requirements of Rules 22.1 and/or 22.2 shall be indicated, once a year, in the Gazette.

22.3	See Rule 88.1(iii).
22.3(a)	Article 12(3) provides that "the international application shall be considered withdrawn if the record copy has not been received by the International Bureau within the prescribed time limit."
22.3(b)	Article 48 deals with delays in meeting certain time limits and excusing, under certain circumstances, such delays. Rule 82 deals with irregularities in the mail service.
22.4	As to the Gazette, see Rule 86.

22.5 *Documents Filed with the International Application*

For the purposes of the present Rule, the term “record copy” shall include also any document filed with the international application referred to in Rule 3.3(a)(ii). If any document referred to in Rule 3.3(a)(ii) which is indicated in the check list as accompanying the international application is not, in fact, filed at the latest by the time the record copy leaves the receiving Office, that Office shall so note on the check list and the said indication shall be considered as if it had not been made.

Rule 23 **Transmittal of the Search Copy**

23.1 *Procedure*

(a) The search copy shall be transmitted by the receiving Office to the International Searching Authority at the latest on the same day as the record copy is transmitted to the International Bureau or, under Rule 22.2(d), to the applicant.

(b) If the International Bureau has not received, within 10 days from the receipt of the record copy, information from the International Searching Authority that that Authority is in possession of the search copy, the International Bureau shall promptly transmit a copy of the international application to the International Searching Authority. Unless the International Searching Authority has erred in alleging that it was not in possession of the search copy by the expiration of the 13th month from the priority date, the cost of making a copy for that Authority shall be reimbursed by the receiving Office to the International Bureau.

(c) The number of instances in which, according to the knowledge of the International Bureau, any receiving Office has not complied with the requirement of Rule 23.1(a) shall be indicated, once a year, in the Gazette.

Rule 24 **Receipt of the Record Copy by the International Bureau**

24.1 *Recording of Date of Receipt of the Record Copy*

The International Bureau shall, upon receipt of the record copy, mark on the request sheet the date of receipt and on all sheets of the international application the stamp of the International Bureau.

22.5 The following are among the documents referred to in Rule 3.3(a)(ii): power of attorney, priority document, receipt or check for fees, an international or international-type search report, a document evidencing that the applicant is the inventor’s successor in title.

Notes on Rule 23: Transmittal of Search Copy

In general: Articles 10; 12

23.1(a) Rule 22.2(d) deals with the case in which the applicant opts for transmitting, himself, the record copy to the International Bureau.

23.1(b) –

23.1(c) As to the Gazette, see Rule 86.

Notes on Rule 24: Receipt of the Record Copy by the International Bureau

In general: Article 12(3)

24.1 –

24.2 *Notification of Receipt of the Record Copy*

(a) Subject to the provisions of paragraph (b), the International Bureau shall promptly notify the applicant, the receiving Office, the International Searching Authority, and all designated Offices, of the fact and the date of receipt of the record copy. The notification shall identify the international application by its number, the international filing date, the name of the applicant, and the name of the receiving Office, and shall indicate the filing date of any earlier application whose priority is claimed. The notification sent to the applicant shall also contain the list of the designated Offices which have been notified under this paragraph, and shall, in respect of each designated Office, indicate any applicable time limit under Article 22(3).

(b) If the record copy is received after the expiration of the time limit fixed in Rule 22.3, the International Bureau shall promptly notify the applicant, the receiving Office, and the International Searching Authority, accordingly.

Rule 25

Receipt of the Search Copy by the International Searching Authority

25.1 *Notification of Receipt of the Search Copy*

The International Searching Authority shall promptly notify the International Bureau, the applicant, and – unless the International Searching Authority is the same as the receiving Office – the receiving Office, of the fact and the date of receipt of the search copy.

Rule 26

Checking and Correcting Certain Elements of the International Application

26.1 *Time Limit for Check*

(a) The receiving Office shall issue the invitation to correct provided for in Article 14(1)(b) as soon as possible, preferably within 1 month from the receipt of the international application.

(b) If the receiving Office issues an invitation to correct the defect referred to in Article 14(1)(a)(iii) or (iv) (missing title or missing abstract), it shall notify the International Searching Authority accordingly.

24.2(a)	Under Article 22(3) any national law may, for furnishing a copy of the international application and a translation thereof to the designated Office, and for paying to such Office the national fee, fix time limits which expire later than the time limit provided for in Article 22(1) (i.e., 20 months from the priority date) or Article 22(2) (i.e., 2 months from the date of the notification sent to the applicant of the declaration under Article 17(2)(a) that no international search report will be established).	<i>Notes on Rule 26: Checking and Correcting Certain Elements of the International Application</i>
		In general: Articles 10; 14
24.2(b)	The time limit fixed in Rule 22.3 is 13 months – or, under certain circumstances, 14 months – from the priority date.	26.1(a) The invitation to correct provided for in Article 14(1)(b) is issued if the international application contains any of the following defects: “(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” (Article 14(1)(a)).
	<i>Notes on Rule 25: Receipt of the Search Copy by the International Searching Authority</i>	26.1(b) As to Article 14(1)(a)(iii) and (iv), see the preceding note.
In general:	Article 17(1)	
25.1	–	

26.2 *Time Limit for Correction*

The time limit referred to in Article 14(1)(b) shall be reasonable under the circumstances of the particular case and shall be fixed in each case by the receiving Office. It shall not be less than 1 month and normally not more than 2 months from the date of the invitation to correct.

26.3 *Checking of Physical Requirements under Article 14(1)(a)(v)*

The physical requirements referred to in Rule 11 shall be checked to the extent that compliance therewith is necessary for the purpose of reasonably uniform international publication.

26.4 *Procedure*

(a) Any correction offered to the receiving Office may be stated in a letter addressed to that Office if the correction is of such a nature that it can be transferred from the letter to the record copy without adversely affecting the clarity and the direct reproducibility of the sheet on to which the correction is to be transferred; otherwise, the applicant shall be required to submit a replacement sheet embodying the correction and the letter accompanying the replacement sheet shall draw attention to the differences between the replaced sheet and the replacement sheet.

(b) The receiving Office shall mark on each replacement sheet the international application number, the date on which it was received, and the stamp identifying the Office. It shall keep in its files a copy of the letter containing the correction or, when the correction is contained in a replacement sheet, the replaced sheet, the letter accompanying the replacement sheet, and a copy of the replacement sheet.

(c) The receiving Office shall promptly transmit the letter and any replacement sheet to the International Bureau. The International Bureau shall transfer to the record copy the corrections requested in a letter, together with the indication of the date of its receipt by the receiving Office, and shall insert any replacement sheet in the record copy. The letter and any replaced sheet shall be kept in the files of the International Bureau.

(d) The receiving Office shall promptly transmit a copy of the letter and any replacement sheet to the International Searching Authority.

26.5 *Correction of Certain Elements*

(a) The receiving Office shall decide whether the applicant has submitted the correction within the prescribed time limit. If the correction has been submitted within the prescribed time limit, the receiving Office shall decide whether the international application so corrected is or is not to be considered withdrawn.

(b) The receiving Office shall mark on the papers containing the correction the date on which it received such papers.

26.6 *Missing Drawings*

(a) If, as provided in Article 14(2), the international application refers to drawings which in fact are not included in that application, the receiving Office shall so indicate in the said application.

26.2	The time limit referred to in Article 14(1)(b) concerns the time given to the applicant to correct any of the defects referred to in the preceding note. See also the note on Rule 26.1(a).
26.3	The physical requirements referred to in Rule 11 are the physical requirements of the international application.
26.4	—
26.5	—
26.6(a)	—

(b) The date on which the applicant receives the notification provided for in Article 14(2) shall have no effect on the time limit fixed under Rule 20.2(a)(iii).

Rule 27 **Lack of Payment of Fees**

27.1 *Fees*

(a) For the purposes of Article 14(3)(a), “fees prescribed under Article 3(4)(iv)” means: the transmittal fee (Rule 14), the basic fee part of the international fee (Rule 15.1(i)), and the search fee (Rule 16).

(b) For the purposes of Article 14(3)(a) and (b), “the fee prescribed under Article 4(2)” means the designation fee part of the international fee (Rule 15.1(ii)).

Rule 28 **Defects Noted by the International Bureau or the International Searching Authority**

28.1 *Note on Certain Defects*

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

(b) The receiving Office shall, unless it disagrees with the said opinion, proceed as provided in Article 14(1)(b) and Rule 26.

26.6(b) The notification provided for in Article 14(2) is a notification by the receiving Office to the applicant to the effect that the drawings referred to in the international application were, in fact, not included in that application. Rule 20.2(a)(iii) allows 30 days (from the date on which the incomplete papers were filed) for the missing drawings to reach the receiving Office.

Notes on Rule 27: Lack of Payment of Fees

In general: Article 14(3)

27.1 –

Notes on Rule 28: Defects Noted by the International Bureau or the International Searching Authority

In general: Article 14(1)

28.1(a) The defect referred to in Article 14(1)(a)(i) is that the international application is not signed as provided in the Regulations; the defect referred to in Article 14(1)(a)(ii) is that the international application does not contain the prescribed indications concerning the applicant; the defect referred to in Article 14(1)(a)(v) is that the international application does not comply to the extent provided in the Regulations with the prescribed physical requirements.

28.1(b) Article 14(1)(b) provides that the receiving Office must invite the applicant to correct any defect referred to in Article 14(1)(a) (see the note on Rule 26.1(a)). Rule 26 deals with the details of the same question.

Rule 29
International Applications or Designations Considered Withdrawn
under Article 14(1), (3) or (4)

29.1 *Finding by Receiving Office*

(a) If the receiving Office declares, under Article 14(1)(b) and Rule 26.5(failure to correct certain defects), or under Article 14(3)(a) (failure to pay the prescribed fees under Rule 27.1(a)), or under Article 14(4) (later finding of non-compliance with the requirements listed in items (i) to (iii) of Article 11(1)), that the international application is considered withdrawn:

(i) the receiving Office shall transmit the record copy (unless already transmitted), and any correction offered by the applicant, to the International Bureau;

(ii) the receiving Office shall promptly notify both the applicant and the International Bureau of the said declaration, and the International Bureau shall in turn notify the interested designated Offices;

(iii) the receiving Office shall not transmit the search copy as provided in Rule 23, or, if such copy has already been transmitted, it shall notify the International Searching Authority of the said declaration;

(iv) the International Bureau shall not be required to notify the applicant of the receipt of the record copy.

(b) If the receiving Office declares under Article 14(3)(b) (failure to pay the prescribed designation fee under Rule 27.1(b)) that the designation of any given State is considered withdrawn, the receiving Office shall promptly notify both the applicant and the International Bureau of the said declaration. The International Bureau shall in turn notify the interested national Office.

29.2 *Finding by Designated Office*

Where the effect of the international application ceases in any designated State by virtue of Article 24(1)(iii), or where such effect is maintained in any designated State by virtue of Article 24(2), the competent designated Office shall promptly notify the International Bureau accordingly.

Notes on Rule 29: International Applications or Designations Considered Withdrawn under Article 14(1), (3) or (4)

In general: Article 14

29.1(a) The prescribed fees under Rule 27.1(a) means: the transmittal fee, the basic fee part of the international fee, and the search fee. The requirements listed in items (i) to (iii) of Article 11(1) are that the applicant does not obviously lack, for reasons of his residence or nationality, the right to file an international application with the receiving Office; that the international application is in the prescribed language; and that the international application contains at least the following elements: an indication that it is intended as an international application, the designation of at least one Contracting State, the name of the applicant (as prescribed), a part which on the face of it appears to be a description, a part which on the face of it appears to be a claim or claims.

29.1(b) Rule 27.1(b) concerns the designation fee part of the international fee.

29.2 The effect ceases by virtue of Article 24(1)(iii) if the applicant fails, within the prescribed time

limit, to furnish a copy of the international application and a translation thereof to the designated Office, and to pay the national fee to that Office. Article 24(2) provides that any designated Office may maintain the effect of the international application even where such effect is not required to be maintained by virtue of Article 25(2).

29.3 *Calling Certain Facts to the Attention of the Receiving Office*

If the International Bureau or the International Searching Authority considers that the receiving Office should make a finding under Article 14(4), it shall call the relevant facts to the attention of the receiving Office.

29.4 *Notification of Intent to Make Declaration under Article 14(4)*

Before the receiving Office issues any declaration under Article 14(4), it shall notify the applicant of its intent to issue such declaration and the reasons therefor. The applicant may, if he disagrees with the tentative finding of the receiving Office, submit arguments to that effect within 1 month from the notification.

Rule 30

Time Limit under Article 14(4)

30.1 *Time Limit*

The time limit referred to in Article 14(4) shall be 6 months from the international filing date.

Rule 31

Copies Required under Article 13

31.1 *Request for Copies*

(a) Requests under Article 13(1) may relate to all, some kinds of, or individual international applications in which the national Office making the request is designated. Requests for all or some kinds of such international applications must be renewed for each year by means of a notification addressed by that Office before November 30 of the preceding year to the International Bureau.

(b) Requests under Article 13(2)(b) shall be subject to the payment of a fee covering the cost of preparing and mailing the copy.

31.2 *Preparation of Copies*

The preparation of copies required under Article 13 shall be the responsibility of the International Bureau.

-
- | | | | |
|------|---|---------|---|
| 29.3 | Article 14(4) provides that if, after having accorded an international filing date, the receiving Office finds, within 6 months from the international filing date, that any of the requirements listed in items (i) to (iii) of Article 11(1) was not complied with at that date, the international application must be considered withdrawn and the receiving Office must so "declare." The said items are quoted in the notes concerning Rule 20.2(a)(i), above. | 31.1(b) | Article 13(2)(b) provides that the applicant may, at any time, ask the International Bureau to transmit a copy of his international application to any designated Office. |
| 29.4 | As to Article 14(4), see the preceding note. | 31.2 | The copies required under Article 13 are the copies needed for transmittal to any designated Office when such transmittal is requested under that Article. |
- Notes on Rule 30: Time Limit under Article 14(4)*
- In general: Article 14(4)
- 30.1 As to Article 14(4), see the note on Rule 29.3.
- Notes on Rule 31: Copies Required under Article 13*
- In general: Article 13
- 31.1(a) Article 13(1) provides that any designated Office may ask the International Bureau to transmit to it a copy of the international application after the expiration of one year from the priority date and prior to the communication provided for in Article 20.

Rule 32
Withdrawal of the International Application or of Designations

32.1 *Withdrawals*

(a) The applicant may withdraw the international application prior to the expiration of 20 months from the priority date except as to any designated State in which national processing or examination has already started. He may withdraw the designation of any designated State prior to the date on which processing or examination may start in that State.

(b) Withdrawal of the designation of all designated States shall be treated as withdrawal of the international application.

(c) Withdrawal shall be effected by a signed notice from the applicant to the International Bureau or, if the record copy has not yet been sent to the International Bureau, to the receiving Office. In the case of Rule 4.8(b), the notice shall require the signature of all the applicants.

(d) Where the record copy has already been sent to the International Bureau, the fact of withdrawal, together with the date of receipt of the notice effecting withdrawal, shall be recorded by the International Bureau and promptly notified by it to the receiving Office, the applicant, the designated Offices affected by the withdrawal, and, where the withdrawal concerns the international application and where the international search report or the declaration referred to in Article 17(2)(a) has not yet issued, the International Searching Authority.

Rule 33
Relevant Prior Art for the International Search

33.1 *Relevant Prior Art for the International Search*

(a) For the purposes of Article 15(2), relevant prior art shall consist of everything which has been made available to the public anywhere in the world by means of written disclosure (including drawings and other illustrations) and which is capable of being of assistance in determining that the claimed invention is or is not new and that it does or does not involve an inventive step (i.e., that it is or is not obvious), provided that the making available to the public occurred prior to the international filing date.

(b) When any written disclosure refers to an oral disclosure, use, exhibition, or other means whereby the contents of the written disclosure were made available to the public, and such making available to the public occurred on a date prior to the international filing date, the international search report shall separately mention that fact and the date on which it occurred if the making available to the public of the written disclosure occurred on a date posterior to the international filing date.

Notes on Rule 32: Withdrawal of the International Application or of Designations

In general: Articles 21(5); 24(1)(i)

32.1(a) –

32.1(b) –

32.1(c) Rule 4.8(b) deals with the case where there is more than one applicant and the request does not refer to an agent, or one of the applicants, representing all the applicants.

32.1(d) The declaration referred to in Article 17(2)(a) is issued where the International Searching Authority considers that the international application relates to a subject matter which it is not required to search and decides not to search, or 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.

Notes on Rule 33: Relevant Prior Art for the International Search

In general: Article 15(2), (4); Rule 88.1(iv)

33.1 Article 15(2) provides that “the objective of the international search is to discover relevant prior art.”

(c) Any published application or any patent whose publication date is later but whose filing date, or, where applicable, claimed priority date, is earlier than the international filing date of the international application searched, and which would constitute relevant prior art for the purposes of Article 15(2) had it been published prior to the international filing date, shall be specially mentioned in the international search report.

33.2 *Fields to be Covered by the International Search*

(a) The international search shall cover all those technical fields, and shall be carried out on the basis of all those search files, which may contain material pertinent to the invention.

(b) Consequently, not only shall the art in which the invention is classifiable be searched but also analogous arts regardless of where classified.

(c) The question what arts are, in any given case, to be regarded as analogous shall be considered in the light of what appears to be the necessary essential function or use of the invention and not only the specific functions expressly indicated in the international application.

(d) The international search shall embrace all subject matter that is generally recognized as equivalent to the subject matter of the claimed invention for all or certain of its features, even though, in its specifics, the invention as described in the international application is different.

33.3 *Orientation of the International Search*

(a) International search shall be made on the basis of the claims, with due regard to the description and the drawings (if any) and with particular emphasis on the inventive concept towards which the claims are directed.

(b) In so far as possible and reasonable, the international search shall cover the entire subject matter to which the claims are directed or to which they might reasonably be expected to be directed after they have been amended.

Rule 34 **Minimum Documentation**

34.1 *Definition*

(a) The definitions contained in Article 2(i) and (ii) shall not apply for the purposes of this Rule.

(b) The documentation referred to in Article 15(4) ("minimum documentation") shall consist of:

- (i) the "national patent documents" as specified in paragraph (c),
- (ii) the published international (PCT) applications, the published regional applications for patents and inventors' certificates, and the published regional patents and inventors' certificates,
- (iii) such other published items of non-patent literature as the International Searching Authorities shall agree upon and which shall be published in a list by the International Bureau when agreed upon for the first time and whenever changed.

33.2 —

33.3 —

Notes on Rule 34: Minimum Documentation

In general: Articles 15(4); 16(3)(c); Rule 88.3(i)

34.1 —

(c) Subject to paragraphs (d) and (e), the “national patent documents” shall be the following:

(i) the patents issued in and after 1920 by France, the former *Reichspatentamt* of Germany, Japan, the Soviet Union, Switzerland (in French and German languages only), the United Kingdom, and the United States of America,

(ii) the patents issued by the Federal Republic of Germany,

(iii) the patent applications, if any, published in and after 1920 in the countries referred to in items (i) and (ii),

(iv) the inventors’ certificates issued by the Soviet Union,

(v) the utility certificates issued by, and the published applications for utility certificates of, France,

(vi) such patents issued by, and such patent applications published in, any other country after 1920 as are in the English, French, or German language and in which no priority is claimed, provided that the national Office of the interested country sorts out these documents and places them at the disposal of each International Searching Authority.

(d) Where an application is republished once (for example, an *Offenlegungsschrift* as an *Auslegeschrift*) or more than once, no International Searching Authority shall be obliged to keep all versions in its documentation; consequently, each such Authority shall be entitled not to keep more than one version. Furthermore, where an application is granted and is issued in the form of a patent or a utility certificate (France), no International Searching Authority shall be obliged to keep both the application and the patent or utility certificate (France) in its documentation; consequently, each such Authority shall be entitled to keep either the application only or the patent or utility certificate (France) only.

(e) Any International Searching Authority whose official language, or one of whose official languages, is not Japanese or Russian is entitled not to include in its documentation those patent documents of Japan and the Soviet Union, respectively, for which no abstracts in the English language are generally available. English abstracts becoming generally available after the date of entry into force of these Regulations shall require the inclusion of the patent documents to which the abstracts refer no later than 6 months after such abstracts become generally available. In case of the interruption of abstracting services in English in technical fields in which English abstracts were formerly generally available, the Assembly shall take appropriate measures to provide for the prompt restoration of such services in the said fields.

(f) For the purposes of this Rule, applications which have only been laid open for public inspection are not considered published applications.

Rule 35

The Competent International Searching Authority

35.1 *When Only One International Searching Authority is Competent*

Each receiving Office shall, in accordance with the terms of the applicable agreement referred to in Article 16(3)(b), inform the International Bureau which International Searching Authority is competent for the searching of the international applications filed with it, and the International Bureau shall promptly publish such information.

35.2 *When Several International Searching Authorities are Competent*

(a) Any receiving Office may, in accordance with the terms of the applicable agreement referred to in Article 16(3)(b), specify several International Searching Authorities:

(i) by declaring all of them competent for any international application filed with it, and leaving the choice to the applicant, or

(ii) by declaring one or more competent for certain kinds of international applications filed with it, and declaring one or more others competent for other kinds of international applications filed with it, provided that, for those kinds of international applications for which several International Searching Authorities are declared to be competent, the choice shall be left to the applicant.

(b) Any receiving Office availing itself of the faculty provided in paragraph (a) shall promptly inform the International Bureau, and the International Bureau shall promptly publish such information.

Rule 36

Minimum Requirements for International Searching Authorities

36.1 *Definition of Minimum Requirements*

The minimum requirements referred to in Article 16(3)(c) 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 searches;

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

(iii) that Office or organization must have a staff which is capable of searching 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 37

Missing or Defective Title

37.1 *Lack of Title*

If the international application does not contain a title and the receiving Office has notified the International Searching Authority that it has invited the applicant to correct such defect, the International Searching Authority shall proceed with the international search unless and until it receives notification that the said application is considered withdrawn.

35.2(a)	As to Article 16(3)(b), see the preceding note.	36.1(i)	—
35.2(b)	—	36.1(ii)	Rule 34 lists the documents that constitute the “minimum documentation.”
<i>Notes on Rule 36: Minimum Requirements for International Searching Authorities</i>		36.1(iii)	As to Rule 34, see the preceding note.
In general:	Article 16(3)(c)	<i>Notes on Rule 37: Missing or Defective Title</i>	
36.1	Article 16(3)(c) provides that any national Office or intergovernmental organization must satisfy the requirements prescribed by the Regulations before it can be appointed as an International Searching Authority and which it must continue to satisfy while it remains appointed.	In general:	Articles 4(1)(iv); 14(1)(a)(iii); 17(1)
		37.1	—

37.2 *Establishment of Title*

If the international application does not contain a title and the International Searching Authority has not received a notification from the receiving Office to the effect that the applicant has been invited to furnish a title, or if the said Authority finds that the title does not comply with Rule 4.3, it shall itself establish a title.

Rule 38 Missing Abstract

38.1 *Lack of Abstract*

If the international application does not contain an abstract and the receiving Office has notified the International Searching Authority that it has invited the applicant to correct such defect, the International Searching Authority shall proceed with the international search unless and until it receives notification that the said application is considered withdrawn.

38.2 *Establishment of Abstract*

(a) If the international application does not contain an abstract and the International Searching Authority has not received a notification from the receiving Office to the effect that the applicant has been invited to furnish an abstract, or if the said Authority finds that the abstract does not comply with Rule 8, it shall itself establish an abstract (in the language in which the international application is published). In the latter case, it shall invite the applicant to comment on the abstract established by it within 1 month from the date of the invitation.

(b) The definitive contents of the abstract shall be determined by the International Searching Authority.

Rule 39 Subject Matter under Article 17(2)(a)(i)

39.1 *Definition*

No International Searching Authority shall be required to search 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 Searching Authority is not equipped to search prior art concerning such programs.

37.2	Rule 4.3 requires that the title of the invention be short (preferably from two to seven words when in English or translated into English) and precise.	38.2(b) –	
	<i>Notes on Rule 38: Missing [or Defective] Abstract</i>		<i>Notes on Rule 39: Subject Matter under Article 17(2)(a)(i)</i>
In general:	Articles 3(2), (3); 14(1)(a)(iv); 17(1)	In general:	Article 17(2)(a)(i); Rule 88.3(ii)
38.1	–	39.1	–
38.2(a)	Rule 8 prescribes the form and contents of the abstract.		

Rule 40
Lack of Unity of Invention (International Search)

40.1 *Invitation to Pay*

The invitation to pay additional fees provided for in Article 17(3)(a) shall specify the reasons for which the international application is not considered as complying with the requirement of unity of invention and shall indicate the amount to be paid.

40.2 *Additional Fees*

(a) The amount of the additional fee due for searching under Article 17(3)(a) shall be determined by the competent International Searching Authority.

(b) The additional fee due for searching under Article 17(3)(a) shall be payable direct to the International Searching 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 Searching 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 designated Offices together with the international search report. The applicant shall submit any translation thereof with the furnishing of the translation of the international application required under Article 22.

(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.

40.3 *Time Limit*

The time limit provided for in Article 17(3)(a) shall be fixed, in each case, according to the circumstances of the case, by the International Searching Authority; it shall not be shorter than 15 or 30 days, respectively, depending on whether the applicant's address is in the same country as or in a different country from that in which the International Searching Authority is located, and it shall not be longer than 45 days, from the date of the invitation.

Notes on Rule 40: Lack of Unity of Invention (International Search)

- In general: Articles 3(2), (4)(iii); 17(3)(a); Rule 13
- 40.1 Article 17(3)(a) provides that if the International Searching Authority considers that the international application does not comply with the requirement of unity of invention, it shall invite the applicant to pay additional fees.
- 40.2(a) As to Article 17(3)(a), see the preceding note.
- 40.2(b) As to Article 17(3)(a), see the note on Rule 40.1.
- 40.2(c) —
- 40.2(d) —
- 40.3 As to Article 17(3)(a), see the note on Rule 40.1.

Rule 41
The International-Type Search

41.1 *Obligation to Use Results; Refund of Fee*

If reference has been made in the request, in the form provided for in Rule 4.11, to an international-type search carried out under the conditions set out in Article 15(5), the International Searching Authority shall, to the extent possible, use the results of the said search in establishing the international search report on the international application. The International Searching Authority shall refund the search fee, to the extent and under the conditions provided for in the agreement under Article 16(3)(b), if the international search report could wholly or partly be based on the results of the international-type search.

Rule 42
Time Limit for International Search

42.1 *Time Limit for International Search*

All agreements concluded with International Searching Authorities shall provide for the same time limit for establishing the international search report or the declaration referred to in Article 17(2)(a). This time limit shall not exceed 3 months from the receipt of the search copy by the International Searching Authority, or 9 months from the priority date, whichever time limit expires later. For a transitional period of 3 years from the entry into force of the Treaty, time limits for the agreement with any International Searching Authority may be individually negotiated, provided that such time limits shall not extend by more than 2 months the time limits referred to in the preceding sentence and in any case shall not go beyond the expiration of the 18th month after the priority date.

Rule 43
The International Search Report

43.1 *Identifications*

The international search report shall identify the International Searching 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, the name of the receiving Office, and the international filing date.

43.2 *Dates*

The international search report shall be dated and shall indicate the date on which the international search was actually completed. It shall also indicate the filing date of any earlier application whose priority is claimed.

Notes on Rule 41: The International-Type Search

In general: Article 15(5)

41.1 The “form” provided for in Rule 4.11 consists of a statement in the request to the effect that an international or international-type search has been requested, and of the identification of the application to which such request related. Article 15(5) provides who may ask for an international-type search and in what cases and by whom and how such a search is carried out. The agreement referred to in Article 16(3)(b) is an agreement between the International Bureau and the International Searching Authority.

Notes on Rule 42: Time Limit for International Search

In general: Article 18(1)

42.1 As to the declaration referred to in Article 17(2)(a), see the note on Rule 32.1(d).

Notes on Rule 43: The International Search Report

In general: Article 18

43.1 –

43.2 –

43.3 *Classification*

(a) The international search report shall contain the classification of the subject matter at least according to the International Patent Classification.

(b) Such classification shall be effected by the International Searching Authority.

43.4 *Language*

Every international search report and any declaration made under Article 17(2)(a) shall be in the language in which the international application to which it relates is published.

43.5 *Citations*

(a) The international search report shall contain the citations of the documents considered to be relevant.

(b) The method of identifying any cited document shall be regulated by the Administrative Instructions.

(c) Citations of particular relevance shall be specially indicated.

(d) Citations which are not relevant to all the claims shall be cited in relation to the claim or claims to which they are relevant.

(e) If only certain passages of the cited document are relevant or particularly relevant, they shall be identified, for example, by indicating the page, the column, or the lines, where the passage appears.

43.6 *Fields Searched*

(a) The international search report shall list the classification identification of the fields searched. If that identification is effected on the basis of a classification other than the International Patent Classification, the International Searching Authority shall publish the classification used.

(b) If the international search extended to patents, inventors' certificates, utility certificates, utility models, patents or certificates of addition, inventors' certificates of addition, utility certificates of addition, or published applications for any of those kinds of protection, of States, periods, or languages, not included in the minimum documentation as defined in Rule 34, the international search report shall, when practicable, identify the kinds of documents, the States, the periods, and the languages to which it extended. For the purposes of this paragraph, Article 2(ii) shall not apply.

43.7 *Remarks Concerning Unity of Invention*

If the applicant paid additional fees for the international search, the international search report shall so indicate. Furthermore, where the international search was made on the main invention only (Article 17(3)(a)), the international search report shall indicate what parts of the international application were and what parts were not searched.

43.8 *Signature*

The international search report shall be signed by an authorized officer of the International Searching Authority.

43.3	—	43.6	—
43.4	As to the declaration referred to in Article 17(2)(a), see the note on Rule 32.1(d).	43.7	According to Article 17(3)(a), the "main invention" is the invention first mentioned in the claims.
43.5(a)	—		
43.5(b)	As to the Administrative Instructions, see Rule 89.	43.8	—
43.5(c)	—		
43.5(d)	—		
43.5(e)	—		

43.9 *No Other Matter*

The international search report shall contain no matter other than that enumerated in Rules 33.1(b) and (c), 43.1, 2, 3, 5, 6, 7 and 8, and 44.2(a) and (b), and the indication referred to in Article 17(2)(b). In particular, it shall contain no expressions of opinion, reasoning, arguments, or explanations.

43.10 *Form*

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

Rule 44 **Transmittal of the International Search Report, Etc.**

44.1 *Copies of Report or Declaration*

The International Searching Authority shall, on the same day, transmit one copy of the international search report or the declaration referred to in Article 17(2)(a) to the International Bureau and one copy to the applicant.

44.2 *Title or Abstract*

(a) Subject to paragraphs (b) and (c), the international search report shall either state that the International Searching Authority approves the title and the abstract as submitted by the applicant or be accompanied by the text of the title and/or abstract as established by the International Searching Authority under Rules 37 and 38.

(b) If, at the time the international search is completed, the time limit allowed for the applicant to comment on any suggestion of the International Searching Authority in respect of the abstract has not expired, the international search report shall indicate that it is incomplete as far as the abstract is concerned.

(c) As soon as the time limit referred to in paragraph (b) has expired, the International Searching Authority shall notify the abstract approved or established by it to the International Bureau and to the applicant.

44.3 *Copies of Cited Documents*

(a) The request referred to in Article 20(3) may be presented any time during 7 years from the international filing date of the international application to which the international search report relates.

43.9	The matters enumerated in the following provisions are: written disclosures of oral disclosures, uses, exhibitions, etc. (Rule 33.1(b)); applications and patents published after a certain date (Rule 33.1(c)); identifications, dates, classification, citations, fields searched, remarks concerning unity of invention, signature (Rules 43.1 to 43.3 and 43.5 to 43.8); remarks concerning title and abstract (Rule 44.2(a) and (b)); indication that no international search report is established in respect of certain claims (Article 17(2)(b)).	44.2(a)	Rule 37 provides that, under certain circumstances, the title of the invention is established by the International Searching Authority. Rule 38 provides that, under certain circumstances, the abstract is established by the said Authority.
		44.2(b)	–
		44.2(c)	–
43.10	As to the Administrative Instructions, see Rule 89.	44.3(a)	Article 20(3) provides that at the request of the designated Office or the applicant, the International Searching Authority must send to the said Office or the applicant, respectively, copies of the documents cited in the international search report.

Notes on Rule 44: Transmittal of the International Search Report, Etc.

In general: Article 18(2)

44.1 As to Article 17(2)(a), see the note on Rule 32.1(d).

(b) The International Searching Authority may require that the party (applicant or designated 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 16(3)(b) between the International Searching Authorities and the International Bureau.

(c) Any International Searching Authority not wishing to send copies direct to any designated Office shall send a copy to the International Bureau and the International Bureau shall then proceed as provided in paragraphs (a) and (b).

(d) Any International Searching Authority may perform the obligations referred to in (a) to (c) through another agency responsible to it.

Rule 45

Translation of the International Search Report

45.1 *Languages*

International search reports and declarations referred to in Article 17(2)(a) shall, when not in English, be translated into English.

Rule 46

Amendment of Claims Before the International Bureau

46.1 *Time Limit*

The time limit referred to in Article 19 shall be 2 months from the date of transmittal of the international search report to the International Bureau and to the applicant by the International Searching Authority or, when such transmittal takes place before the expiration of 14 months from the priority date, 3 months from the date of such transmittal.

46.2 *Dating of Amendments*

The date of receipt of any amendment shall be recorded by the International Bureau and shall be indicated by it in any publication or copy issued by it.

46.3 *Language of Amendments*

If the international application has been filed in a language other than the language in which it is published by the International Bureau, any amendment made under Article 19 shall be both in the language in which the international application has been filed and in that in which it is published.

44.3(b)	The agreement referred to in Article 16(3)(b) is an agreement between the International Bureau and the International Searching Authority	46.1	According to Article 19(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 <i>within the prescribed time limit</i> " (emphasis added).
44.3(c)	—		
44.3(d)	—		
<i>Notes on Rule 45: Translation of the International Search Report</i>		46.2	—
In general:	Article 18(3)	46.3	As to Article 19, see the note on Rule 46.1.
45.1	As to Article 17(2)(a), see the note on Rule 32.1(d).		
<i>Notes on Rule 46: Amendment of Claims Before the International Bureau</i>			
In general:	Article 19		

46.4 *Statement*

(a) The statement referred to in Article 19(1) shall be in the language in which the international application is published and shall not exceed 500 words if in the English language or if translated into that language.

(b) The statement shall contain no comments on the international search report or the relevance of the citations contained in that report. The statement may refer to a citation contained in the international search report only in order to indicate that a specific amendment of the claims is intended to avoid the document cited.

46.5 *Form of Amendments*

(a) The applicant shall be required to submit a replacement sheet for every sheet of the claims which, on account of an amendment or amendments under Article 19, differs from the sheet originally filed. The letter accompanying the replacement sheets shall draw attention to the differences between the replaced sheets and the replacement sheets. To the extent that any amendment results in the cancellation of an entire sheet, that amendment shall be communicated in a letter.

(b) The International Bureau shall mark on each replacement sheet the international application number, the date on which it was received, and the stamp identifying the International Bureau. It shall keep in its files any replaced sheet, the letter accompanying the replacement sheet or sheets, and any letter referred to in the last sentence of paragraph (a).

(c) The International Bureau shall insert any replacement sheet in the record copy and, in the case referred to in the last sentence of paragraph (a), shall indicate the cancellations in the record copy.

Rule 47 **Communication to Designated Offices**

47.1 *Procedure*

(a) The communication provided for in Article 20 shall be effected by the International Bureau.

(b) Such communication shall be effected promptly after the International Bureau has received amendments from the applicant, or a declaration that the applicant does not wish to make amendments before the International Bureau, or, in any case, when the time limit provided for in Rule 46.1 has expired. Where, under Article 17(2)(a), the International Searching Authority has made a declaration that no international search report will be established, the communication provided for in Article 20 shall be effected, unless the international application is withdrawn, within 1 month from the date on which the International Bureau has been notified of the said declaration by the International Searching Authority; such communication shall be accompanied by an indication of the date of the notification sent to the applicant under Article 17(2)(a).

46.4(a)	According to Article 19(1), the applicant may, when filing amendments, file a brief statement explaining the amendments and indicating any impact that such amendments might have on the description or drawings.	47.1(a)	The communication provided for in Article 20 is the communication of the international application, together with the international search report or the declaration referred to in Article 17(2)(a) (see the note on Rule 32.1(d)) to each designated Office.
46.4(b)	–		
46.5(a)	As to Article 19, see the note on Rule 46.1.	47.1(b)	The time limit provided for in Rule 46.1 is 2 months from the date of transmittal of the international search report to the International Bureau and to the applicant by the International Searching Authority or, when such transmittal takes place before the expiration of 14 months from the priority date, 3 months from the date of such transmittal.
46.5(b)	–		
46.5(c)	–		

Notes on Rule 47: Communication to Designated Offices

In general: Article 20

(c) The International Bureau shall send a notice to the applicant indicating the designated Offices to which the communication has been effected and the date of such communication. Such notice shall be sent on the same day as the communication.

(d) Each designated Office shall, when it so requires, receive the international search reports and the declarations referred to in Article 17(2)(a) also in the translation referred to in Rule 45.1.

(e) Where any designated Office has waived the requirement provided under Article 20, the copies of the documents which otherwise would have been sent to that Office shall, at the request of that Office or the applicant, be sent to the applicant at the time of the notice referred to in paragraph (c).

47.2 *Copies*

(a) The copies required for communication shall be prepared by the International Bureau.

(b) They shall be on sheets of A4 size.

47.3 *Languages*

The international application communicated under Article 20 shall be in the language in which it is published provided that if that language is different from the language in which it was filed it shall, on the request of the designated Office, be communicated in either or both of these languages.

Rule 48 International Publication

48.1 *Form*

(a) The international application shall be published in the form of a pamphlet.

(b) The particulars regarding the form of the pamphlet and the method of reproduction shall be governed by the Administrative Instructions.

48.2 *Contents*

(a) The pamphlet shall contain:

(i) a standardized front page,

(ii) the description,

(iii) the claims,

(iv) the drawings, if any,

(v) subject to paragraph (g), the international search report or the declaration under Article 17(2)(a),

(vi) any statement filed under Article 19(1), unless the International Bureau finds that the statement does not comply with the provisions of Rule 46.4.

<p>47.1(c) –</p> <p>47.1(d) As to Article 17(2)(a), see the note on Rule 32.1(d). The translation referred to in Rule 45.1 is a translation into English.</p> <p>47.1(e) As to Article 20, see the note on Rule 47.1(a).</p> <p>47.2 –</p> <p>47.3 As to Article 20, see the note on Rule 47.1(a).</p> <p><i>Notes on Rule 48: International Publication</i></p> <p>In general: Article 21</p> <p>48.1(a) –</p> <p>48.1(b) As to the Administrative Instructions, see Rule 89.</p>	<p>48.2(a) As to Article 17(2)(a), see the note on Rule 32.1(d). As to Article 19(1), see the note on Rule 46.4(a). Rule 46.4 prescribes the language and the length of the statement and prohibits the statement from containing comments on the international search report or on the relevance of the citations contained in that report.</p>
--	--

(b) Subject to paragraph (c), the front page shall include:

(i) data taken from the request sheet and such other data as are prescribed by the Administrative Instructions,

(ii) a figure or figures where the international application contains drawings,

(iii) the abstract; if the abstract is both in English and in another language, the English text shall appear first.

(c) Where a declaration under Article 17(2)(a) has issued, the front page shall conspicuously refer to that fact and need include neither a drawing nor an abstract.

(d) The figure or figures referred to in paragraph (b)(ii) shall be selected as provided in Rule 8.2. Reproduction of such figure or figures on the front page may be in a reduced form.

(e) If there is not enough room on the front page for the totality of the abstract referred to in paragraph (b)(iii), the said abstract shall appear on the back of the front page. The same shall apply to the translation of the abstract when such translation is required to be published under Rule 48.3(c).

(f) If the claims have been amended under Article 19, the publication shall contain either the full text of the claims both as filed and as amended or the full text of the claims as filed and specify the amendments. Any statement referred to in Article 19(1) shall be included as well, unless the International Bureau finds that the statement does not comply with the provisions of Rule 46.4. The date of receipt of the amended claims by the International Bureau shall be indicated.

(g) If, at the time when publication is due, the international search report is not yet available (for example, because of publication on the request of the applicant as provided in Articles 21(2)(b) and 64(3)(c)(i)), the pamphlet shall contain, in place of the international search report, an indication to the effect that that report was not available and that either the pamphlet (then also including the international search report) will be republished or the international search report (when it becomes available) will be separately published.

(h) If, at the time when publication is due, the time limit for amending the claims under Article 19 has not expired, the pamphlet shall refer to that fact and indicate that, should the claims be amended under Article 19, then, promptly after such amendments, either the pamphlet (containing the claims as amended) will be republished or a statement reflecting all the amendments will be published. In the latter case, at least the front page and the claims shall be republished and, if a statement under Article 19(1) has been filed, that statement shall be published as well, unless the International Bureau finds that the statement does not comply with the provisions of Rule 46.4.

48.2(b)	–		the international search report or on the relevance of the citations contained in that report.
48.2(b)(i)	As to the Administrative Instructions, see Rule 89.		
48.2(b)(ii)	–	48.2(g)	Under Article 21(2)(b), the applicant may ask for international publication before the expiration of 18 months from the priority date. Under Article 64(3)(c)(i), the applicant may ask for international publication where, without such request, the publication would not be effected
48.2(b)(iii)	–		
48.2(c)	As to Article 17(2)(a), see the note on Rule 32.1(d).		
48.2(d)	Rule 8.2 entitles, in certain circumstances, the International Searching Authority to select a figure or figures.		
48.2(e)	The translation referred to in Rule 48.3(c) is a translation into English.	48.2(h)	See the note on Rule 48.2(f).
48.2(f)	As to Article 19, see the notes on Rules 46.1 and 46.4(a). Rule 46.4 prescribes the language and the length of the statement and prohibits the statement from containing comments on		

(i) The Administrative Instructions shall determine the cases in which the various alternatives referred to in paragraphs (g) and (h) shall apply. Such determination shall depend on the volume and complexity of the amendments and/or the volume of the international application and the cost factors.

48.3 *Language*

(a) If the international application is filed in English, French, German, Japanese, or Russian, that application shall be published in the language in which it was filed.

(b) If the international application is filed in a language other than English, French, German, Japanese, or Russian, that application shall be published in English translation. The translation shall be prepared under the responsibility of the International Searching Authority, which shall be obliged to have it ready in time to permit the communication under Article 20 by the prescribed date, or, if the international publication is due at an earlier date than the said communication, to permit international publication by the prescribed date. Notwithstanding Rule 16.1(a), the International Searching Authority may charge a fee for the translation to the applicant. The International Searching Authority shall give the applicant an opportunity to comment on the draft translation. The International Searching Authority shall fix a time limit reasonable under the circumstances of the case for such comments. If there is no time to take the comments of the applicant into account before the translation is communicated or if there is a difference of opinion between the applicant and the said Authority as to the correct translation, the applicant may send a copy of his comments, or what remains of them, to the International Bureau and each designated Office to which the translation was communicated. The International Bureau shall publish the essence of the comments together with the translation of the International Searching Authority or subsequently to the publication of such translation.

(c) If the international application is published in a language other than English, the international search report, or the declaration referred to in Article 17(2)(a), and the abstract shall be published both in that language and in English. The translations shall be prepared under the responsibility of the International Bureau.

48.4 *Earlier Publication on the Applicant's Request*

(a) Where the applicant asks for publication under Articles 21(2)(b) and 64(3)(c)(i) and the international search report, or the declaration referred to in Article 17(2)(a), is not yet available for publication together with the international application, the International Bureau shall collect a special publication fee whose amount shall be fixed in the Administrative Instructions.

(b) Publication under Articles 21(2)(b) and 64(3)(e)(i) shall be effected by the International Bureau promptly after the applicant has asked for it and, where a special fee is due under paragraph (a), after receipt of such fee.

48.2(i)	As to the Administrative Instructions, see Rule 89.	48.4(a)	As to Articles 21(2)(b) and 64(3)(c)(i), see the note under Rule 48.2(g), and as to Article 17(2)(a), see the note on Rule 32.1(d).
48.3(a)	–		As to the Administrative Instructions, see Rule 89.
48.3(b)	The communication under Article 20 is a communication to the designated Offices, Rule 16.1(a) provides that the search fee covers all the tasks entrusted to the International Searching Authority.	48.4(b)	See the note on Rule 48.2(g).
48.3(c)	As to Article 17(2)(a), see the note on Rule 32.1(d).		

48.5 *Notification of National Publication*

Where the publication of the international application by the International Bureau is governed by Article 64(3)(c)(ii), the national Office concerned shall, promptly after effecting the national publication referred to in the said provision, notify the International Bureau of the fact of such national publication.

48.6 *Announcing of Certain Facts*

(a) If any notification under Rule 29.1(a)(ii) reaches the International Bureau at a time later than that at which it was able to prevent the international publication of the international application, the International Bureau shall promptly publish a notice in the Gazette reproducing the essence of such notification.

(b) The essence of any notification under Rules 29.2 or 51.4 shall be published in the Gazette and, if the notification reaches the International Bureau before preparations for the publication of the pamphlet have been completed, also in the pamphlet.

(c) If the international application is withdrawn after its international publication, this fact shall be published in the Gazette.

Rule 49 **Languages of Translations and Amounts of Fees** **under Article 22(1) and (2)**

49.1 *Notification*

(a) Any Contracting State requiring the furnishing of a translation or the payment of a national fee, or both, under Article 22, shall notify the International Bureau of:

(i) the languages from which and the language into which it requires translation,

(ii) the amount of the national fee.

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

(c) If the requirements under paragraph (a) change later, such changes shall be notified by the Contracting State to the International Bureau and that Bureau shall promptly publish the notification in the Gazette. If the change means that translation is required into a language which, before the change, was not required, such change shall be effective only with respect to international applications filed later than 2 months after the publication of the notification in the Gazette. Otherwise, the effective date of any change shall be determined by the Contracting State.

48.5	Article 64(3)(c)(ii) deals with the case where the international publication is to be preceded by a national publication.	<i>Notes on Rule 49: Languages of Translations and Amounts of Fees under Article 22(1) and (2)</i>
48.6(a)	The notification under Rule 29.1(a)(ii) relates to the receiving Office's declaration that the international application is considered withdrawn. As to the Gazette, see Rule 86.	In general: Article 22 49.1(a) – 49.1(b) As to the Gazette, see Rule 86. 49.1(c) As to the Gazette, see Rule 86.
48.6(b)	The notification under Rule 29.2 relates to the case where the effect of the international application ceases by virtue of Article 24(1)(iii), or where such effect is maintained by virtue of Article 24(2). As to the Gazette, see Rule 86. The notification under Rule 51.4 relates to the case where the designated Office decides that the refusal, declaration or finding referred to in Article 25(1) was not justified.	
48.6(c)	As to the Gazette, see Rule 86.	

49.2 *Languages*

The language into which translation may be required must be an official language of the designated Office. If there are several of such languages, no translation may be required if the international application is in one of them. If there are several official languages and a translation must be furnished, the applicant may choose any of those languages. Notwithstanding the foregoing provisions of this paragraph, if there are several official languages but the national law prescribes the use of one such language for foreigners, a translation into that language may be required.

49.3 *Statements under Article 19*

For the purposes of Article 22 and the present Rule, any statement made under Article 19(1) shall be considered part of the international application.

Rule 50 **Faculty under Article 22(3)**

50.1 *Exercise of Faculty*

(a) Any Contracting State allowing a time limit expiring later than the time limits provided for in Article 22(1) or (2) shall notify the International Bureau of the time limits 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 international applications filed after the expiration of 3 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 international applications pending at the time or filed after the date of such publication, or, if the Contracting State effecting the notification fixes some later date, as from the latter date.

Rule 51 **Review by Designated Offices**

51.1 *Time Limit for Presenting the Request to Send Copies*

The time limit referred to in Article 25(1)(c) shall be 2 months computed from the date of the notification sent to the applicant under Rules 20.7(i), 24.2(b), 29.1(a)(ii), or 29.1(b).

-
- 49.2 –
49.3 As to Article 19, see the note under Rule 46.4(a).

Notes on Rule 50: Faculty under Article 22(3)

- In general: Article 22(3)
50.1(a) The time limit under Article 22(1) is 20 months from the priority date. The time limit under Article 22(2) is two months from the date of the notification that no international search report will be established.
50.1(b) As to the Gazette, see Rule 86.
50.1(c) –
50.1(d) As to the Gazette, see Rule 86.

Notes on Rule 51: Review by Designated Offices

- In general: Article 25
51.1 The time limit referred to in Article 25(1)(c)

concerns the time limit for the applicant to present to the International Bureau a request to send copies of any document in the file to the designated Offices. Rule 20.7(i) provides that the receiving Office shall promptly notify the applicant that his purported international application will not be treated as an international application since it does not fulfil the requirements provided for under Article 11(1). Rule 24.2(b) provides that the International Bureau shall promptly notify the applicant that his record copy was received after the expiration of the time limit fixed in Rule 22.3. Rule 29.1(a)(ii) provides that the receiving Office shall promptly notify the applicant that his international application is considered withdrawn. Rule 29.1(b) provides that the receiving Office shall promptly notify the applicant that the designation of any given State is considered withdrawn.

51.2 *Copy of the Notice*

Where the applicant, after having received a negative determination under Article 11(1), requests the International Bureau, under Article 25(1), to send copies of the file of the purported international application to any of the named Offices he has attempted to designate, he shall attach to his request a copy of the notice referred to in Rule 20.7(i).

51.3 *Time Limit for Paying National Fee and Furnishing Translation*

The time limit referred to in Article 25(2)(a) shall expire at the same time as the time limit prescribed in Rule 51.1.

51.4 *Notification to the International Bureau*

Where, under Article 25(2), the competent designated Office decides that the refusal, declaration or finding referred to in Article 25(1) was not justified, it shall promptly notify the International Bureau that it will treat the international application as if the error or omission referred to in Article 25(2) had not occurred.

Rule 52 **Amendment of the Claims, the Description, and the Drawings, Before Designated Offices**

52.1 *Time Limit*

(a) In any designated State in which processing or examination starts without special request, the applicant shall, if he so wishes, exercise the right under Article 28 within one month from the fulfillment of the requirements under Article 22, provided that, if the communication under Rule 47.1 has not been effected by the expiration of the time limit applicable under Article 22, he shall exercise the said right not later than 4 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 designated State in which the national law provides that examination starts only on special request, the time limit within or the time at which the applicant may exercise the right under Article 28 shall 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).

51.2	The negative determination under Article 11(1) is made by the receiving Office if the purported international application does not comply with certain requirements. Article 25 deals with the possible review, by the designated Office, of such determination. The notice referred to in Rule 20.7(i) is the notice by the receiving Office to the applicant informing him of the negative determination.	<i>Notes on Rule 52: Amendment of the Claims, the Description, and the Drawings, Before Designated Offices</i>
		In general: Article 28
51.3	The time limit referred to in Article 25(2)(a) concerns the furnishing of a translation, and the payment of the national fee, to the designated Office requested to review certain decisions of the receiving Office or the International Bureau.	52.1(a) The right under Article 28 is the right to amend the application before any designated Office. The requirements under Article 22 are those of furnishing a copy and a translation of the international application, and of paying the national fees. The communication under Rule 47.1 is the communication to the designated Office under Article 20. The time limit under Article 22 is normally 20 months from the priority date.
51.4	As to Article 25, see the note on Rule 51.2.	52.1(b) As to Article 28, see the preceding note.

PART C
RULES CONCERNING CHAPTER II OF THE TREATY

Rule 53
The Demand

53.1 *Form*

- (a) The demand shall be made on a printed form.
- (b) Copies of printed forms shall be furnished free of charge by the receiving Offices to the applicants.
- (c) The particulars of the forms shall be prescribed by the Administrative Instructions.
- (d) The demand shall be submitted in two identical copies.

53.2 *Contents*

- (a) The demand shall contain:
 - (i) a petition,
 - (ii) indications concerning the applicant and the agent if there is an agent,
 - (iii) indications concerning the international application to which it relates,
 - (iv) election of States.
- (b) The demand shall be signed.

53.3 *The Petition*

The petition shall be to the following effect and shall preferably be worded as follows: "Demand under Article 31 of the Patent Cooperation Treaty: The undersigned requests that the international application specified below be the subject of international preliminary examination according to the Patent Cooperation Treaty."

53.4 *The Applicant*

As to the indications concerning the applicant, Rules 4.4 and 4.16 shall apply, and Rule 4.5 shall apply *mutatis mutandis*.

53.5 *The Agent*

If an agent is designated, Rules 4.4, 4.7, and 4.16 shall apply, and Rule 4.8 shall apply *mutatis mutandis*.

53.6 *Identification of the International Application*

The international application shall be identified by the name of the receiving Office with which the international application was filed, the name and address of the applicant, the title of the invention, and, where the international filing date and the international application number are known to the applicant, that date and that number.

Notes on Rule 53: The Demand

In general: Article 31

53.1(a) —

53.1(b) —

53.1(c) As to the Administrative Instructions, see Rule 89.

53.1(d) —

53.2 —

53.3 —

53.4 Rule 4.4 deals with the manner in which names and addresses must be indicated. Rule 4.16 prescribes the transliteration or translation of certain words. Rule 4.5 deals with indications concerning the applicant.

53.5

Rule 4.4 deals with the manner in which names and addresses must be indicated. Rule 4.7 provides that if agents are designated, the request must so indicate, and must state the names and addresses. Rule 4.16 prescribes the transliteration or translation of certain words. Rule 4.8 deals with the representation of several applicants not having a common agent.

53.6

—

53.7 *Election of States*

The demand shall name, among the designated States, at least one Contracting State bound by Chapter II of the Treaty as elected State.

53.8 *Signature*

The demand shall be signed by the applicant.

Rule 54 **The Applicant Entitled to Make a Demand**

54.1 *Residence and Nationality*

The residence or nationality of the applicant shall, for the purposes of Article 31(2), be determined according to Rules 18.1 and 18.2.

54.2 *Several Applicants: Same for All Elected States*

If all the applicants are applicants for the purposes of all elected States, the right to make a demand under Article 31(2) shall exist if at least one of them is

(i) a resident or national of a Contracting State bound by Chapter II and the international application has been filed as provided in Article 31(2)(a), or

(ii) a person entitled to make a demand under Article 31(2)(b) and the international application has been filed as provided in the decision of the Assembly.

54.3 *Several Applicants: Different for Different Elected States*

(a) For the purposes of different elected States, different applicants may be indicated, provided that, in respect of each elected State, at least one of the applicants indicated for the purposes of that State is

(i) a resident or national of a Contracting State bound by Chapter II and the international application has been filed as provided in Article 31(2)(a), or

(ii) a person entitled to make a demand under Article 31(2)(b) and the international application has been filed as provided in the decision of the Assembly.

(b) If the requirement under paragraph (a) is not fulfilled in respect of any elected State, the election of that State shall be considered not to have been made.

54.4 *Change in the Person or Name of the Applicant*

Any change in the person or name of the applicant shall, on the request of the applicant or the receiving Office, be recorded by the International Bureau, which shall notify the interested International Preliminary Examining Authority and the elected Offices accordingly.

53.7	–		
53.8	–		
<i>Notes on Rule 54: The Applicant Entitled to Make a Demand</i>		54.2(ii)	Article 31(2)(b) provides that 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.
In general: Article 31(2)			
54.1	Article 31(2) specifies residents and nationals of which States are allowed to make demands for international preliminary examinations. Rules 18.1 and 18.2 deal with the concepts of residence and nationality.	54.3(a)(i)	As to Article 31(2)(a), see the note on Rule 54.2(i).
54.2	The demand under Article 31(2) is a demand for international preliminary examination.	54.3(a)(ii)	As to Article 31(2)(b), see the note on Rule 54.2(ii).
54.2(i)	Article 31(2)(a) provides that 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	54.3(b)	–
		54.4	–

acting for such State, may make a demand for international preliminary examination.

Rule 55
Languages (International Preliminary Examination)

55.1 *The Demand*

The demand shall be in the language of the international application or, when a translation is required under Rule 55.2, in the language of that translation.

55.2 *The International Application*

(a) If the competent International Preliminary Examining Authority is not part of the same national Office or intergovernmental organization as the competent International Searching Authority, and if the international application is in a language other than the language, or one of the languages, specified in the agreement concluded between the International Bureau and the International Preliminary Examining Authority competent for the international preliminary examination, the latter may require that the applicant submit a translation of that application.

(b) The translation shall be submitted not later than the later of the following two dates:

- (i) the date on which the time limit under Rule 46.1 expires,
- (ii) the date on which the demand is submitted.

(c) The translation shall contain a statement that, to the best of the applicant's knowledge, it is complete and faithful. This statement shall be signed by the applicant.

(d) If the provisions of paragraphs (b) and (c) are not complied with, the International Preliminary Examining Authority shall invite the applicant to comply with them within 1 month from the date of the invitation. If the applicant fails to do so, the demand shall be considered as if it had not been submitted and the International Preliminary Examining Authority shall notify the applicant and the International Bureau accordingly.

Rule 56
Later Elections

56.1 *Elections Submitted Later Than the Demand*

The election of States not named in the demand shall be effected by a notice signed and submitted by the applicant, and shall identify the international application and the demand.

56.2 *Identification of the International Application*

The international application shall be identified as provided in Rule 53.6.

Notes on Rule 55: Languages (International Preliminary Examination)

In general: Article 31(3)

55.1 –

55.2(a) –

55.2(b)(i) The time limit under Rule 46.1 concerns the time limit for amending claims before the International Bureau and expires 2 months after the date of transmittal of the international search report to the applicant and the International Bureau or, when the transmittal took place before the expiration of 14 months from the priority date, 3 months after the date of such transmittal.

55.2(b)(ii) –

55.2(c) –

55.2(d) –

Notes on Rule 56: Later Elections

In general: Article 31(4)(a), (6)(b)

56.1 –

56.2 According to Rule 53.6, the international application shall be identified by the name of the receiving Office with which the international application was filed, the name and address of the applicant, the title of the invention, and, where the international filing date and the international application number are known to the applicant, that date and that number.

56.3 *Identification of the Demand*

The demand shall be identified by the date on which it was submitted and by the name of the International Preliminary Examining Authority to which it was submitted.

56.4 *Form of Later Elections*

The later election shall preferably be made on a printed form furnished free of charge to applicants. If it is not made on such a form, it shall preferably be worded as follows: "In relation to the international application filed with ... on ... under No. ... by ... (applicant) (and the demand for international preliminary examination submitted on ... to ...), the undersigned elects the following additional State(s) under Article 31 of the Patent Cooperation Treaty:..."

56.5 *Language of Later Elections*

The later election shall be in the language of the demand.

Rule 57 The Handling Fee

57.1 *Requirement to Pay*

Each demand for international preliminary examination shall be subject to the payment of a fee for the benefit of the International Bureau ("handling fee").

57.2 *Amount*

(a) The amount of the handling fee shall be US \$14.00 or 60 Swiss francs augmented by as many times the same amount as the number of languages into which the international preliminary examination report must, in application of Article 36(2), be translated by the International Bureau.

(b) Where, because of a later election or elections, the international preliminary examination report must, in application of Article 36(2), be translated by the International Bureau into one or more additional languages, a supplement to the handling fee shall be payable and shall amount to US \$14.00 or 60 Swiss francs for each additional language.

57.3 *Mode and Time of Payment*

(a) Subject to paragraph (b), the handling fee shall be collected by the International Preliminary Examining Authority to which the demand is submitted and shall be due at the time the demand is submitted.

(b) Any supplement to the handling fee under Rule 57.2(b) shall be collected by the International Bureau and shall be due at the time the later election is submitted.

(c) The handling fee shall be payable in the currency prescribed by the International Preliminary Examining Authority to which the demand is submitted, it being understood that, when transferred by that Authority to the International Bureau, it shall be freely convertible into Swiss currency.

(d) Any supplement to the handling fee shall be payable in Swiss currency.

56.3 –
56.4 –
56.5 –

Notes on Rule 57: The Handling Fee

In general: Article 31(5)

57.1 –

57.2(a) According to Article 36(2), the international 57.2(b)
57.3

preliminary examination report and its annexes must be translated into the prescribed languages (see Rules 70.17 and 72.1). The report must be translated by or under the responsibility of the International Bureau, whereas the annexes must be translated by the applicant.

As to Article 36(2), see the preceding note.

–

57.4 *Failure to Pay (Handling Fee)*

(a) Where the handling fee is not paid as required by Rules 57.2(a) and 57.3(a) and (c), the International Preliminary Examining Authority shall invite the applicant to pay the fee within 1 month from the date of the invitation.

(b) If the applicant complies with the invitation within the prescribed time limit, the demand shall be considered as if it had been received on the date on which the International Preliminary Examining Authority receives the fee, unless, under Rule 60.1(b), a later date is applicable.

(c) If the applicant does not comply with the invitation within the prescribed time limit, the demand shall be considered as if it had not been submitted.

57.5 *Failure to Pay (Supplement to the Handling Fee)*

(a) Where the supplement to the handling fee is not paid as required by Rules 57.2(b) and 57.3(b) and (d), the International Bureau shall invite the applicant to pay the supplement within 1 month from the invitation.

(b) If the applicant complies with the invitation within the prescribed time limit, the later election shall be considered as if it had been received on the date on which the International Bureau receives the supplement, unless, under Rule 60.2(b), a later date is applicable.

(c) If the applicant does not comply with the invitation within the prescribed time limit, the later election shall be considered as if it had not been submitted.

57.6 *Refund*

In no case shall the handling fee, including any supplement thereto, be refunded.

Rule 58 **The Preliminary Examination Fee**

58.1 *Right to Ask for a Fee*

(a) Each International Preliminary Examining Authority may require that the applicant pay a fee ("preliminary examination fee") for its own benefit for carrying out the international preliminary examination and for performing all other tasks entrusted to International Preliminary Examining Authorities under the Treaty and these Regulations.

(b) The amount and the due date of the preliminary examination fee, if any, shall be fixed by the International Preliminary Examining Authority, provided that the said due date shall not be earlier than the due date of the handling fee.

(c) The preliminary examination fee shall be payable directly to the International Preliminary Examining Authority. Where that Authority is a national Office, it shall be payable in the currency prescribed by that Office, and where the Authority is an intergovernmental organization, it shall be payable in the currency of the State in which the intergovernmental organization is located or in any other currency which is freely convertible into the currency of the said State.

57.4(a)	–	date later than the date the supplement to the handling fee is received.
57.4(b)	Under Rule 60.1(b), a later date will be applicable if the correction is received on a date later than the date the handling fee is received.	57.5(c) – 57.6 –
57.4(c)	–	<i>Notes on Rule 58: The Preliminary Examination Fee</i>
57.5(a)	–	In general: Article 31(5)
57.5(b)	Under Rule 60.2(b), a later date will be applicable if the correction is received on a	58.1 –

Rule 59
The Competent International Preliminary Examining Authority

59.1 *Demands under Article 31(2)(a)*

For demands made under Article 31(2)(a), each Contracting State bound by the provisions of Chapter II shall, in accordance with the terms of the applicable agreement referred to in Article 32(2) and (3), inform the International Bureau which International Preliminary Examining Authority is or which International Preliminary Examining Authorities are competent for the international preliminary examination of international applications filed with its national Office, or, in the case provided for in Rule 19.1(b), with the national Office of another State or an intergovernmental organization acting for the former Office, and the International Bureau shall promptly publish such information. Where several International Preliminary Examining Authorities are competent, the provisions of Rule 35.2 shall apply *mutatis mutandis*.

59.2 *Demands under Article 31(2)(b)*

As to demands made under Article 31(2)(b), the Assembly, in specifying the International Preliminary Examining Authority competent for international applications filed with a national Office which is an International Preliminary Examining Authority, shall give preference to that Authority; if the national Office is not an International Preliminary Examining Authority, the Assembly shall give preference to the International Preliminary Examining Authority recommended by that Office.

Rule 60
Certain Defects in the Demand or Elections

60.1 *Defects in the Demand*

(a) If the demand does not comply with the requirements specified in Rules 53 and 55, the International Preliminary Examining Authority shall invite the applicant to correct the defects within 1 month from the date of the invitation.

(b) If the applicant complies with the invitation within the prescribed time limit, the demand shall be considered as if it had been received on the date on which the International Preliminary Examining Authority receives the correction, or, when the handling fee is received under Rule 57.4(b) at a later date, on that date.

Notes on Rule 59: The Competent International Preliminary Examining Authority

In general: Article 31(2), (b)(a); 32

59.1 Demands made under Article 31(2)(a) are demands made for international preliminary examination by applicants who are residents or nationals of Contracting States bound by Chapter II and whose international applications have been filed with receiving Offices of or acting for such States. The agreement referred to in Article 32(2) and (3) is an agreement between the International Bureau and the International Preliminary Examining Authority. According to Rule 19.1(b), any Contracting State may agree with another Contracting State or any intergovernmental organization that the national Office of the latter State or the intergovernmental organization shall, for all or some purposes, act instead of the national Office of the former State as receiving Office for applicants who are residents or nationals of that former State.

Rule 35.2 deals with the case in which several International Searching Authorities are competent.

59.2 Demands made under Article 31(2)(b) are demands made for international preliminary examination by applicants who are entitled to file international applications but who are residents or nationals of a State not party to the PCT or not bound by Chapter II, but in respect of whom the Assembly has decided that they are entitled to make such demands.

Notes on Rule 60: Certain Defects in the Demand or Elections

In general: Article 31

60.1(a) Rule 53 deals with the form and contents of the demand. Rule 55 specifies the language in which the demand and the international application must be.

60.1(b) Rule 57.4(b) deals with the case where the handling fee is paid later than the submission of the demand.

(c) If the applicant does not comply with the invitation within the prescribed time limit, the demand shall be considered as if it had not been submitted.

(d) If the defect is noticed by the International Bureau, it shall bring the defect to the attention of the International Preliminary Examining Authority, which shall then proceed as provided in paragraphs (a) to (c).

60.2 *Defects in Later Elections*

(a) If the later election does not comply with the requirements of Rule 56, the International Bureau shall invite the applicant to correct the defects within 1 month from the date of the invitation.

(b) If the applicant complies with the invitation within the prescribed time limit, the later election shall be considered as if it had been received on the date on which the International Bureau receives the correction, or, where the supplement to the handling fee is received under Rule 57.5(b) at a later date, on that date.

(c) If the applicant does not comply with the invitation within the prescribed time limit, the later election shall be considered as if it had not been submitted.

60.3 *Attempted Elections*

If the applicant has attempted to elect a State which is not a designated State or which is not bound by Chapter II, the attempted election shall be considered not to have been made, and the International Bureau shall notify the applicant accordingly.

Rule 61 **Notification of the Demand and Elections**

61.1 *Notifications to the International Bureau, the Applicant, and the International Preliminary Examining Authority*

(a) The International Preliminary Examining Authority shall indicate on both copies of 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 original copy to the International Bureau. It shall keep the other 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 57.4(c) or 60.1(c) as if it had not been submitted, the International Preliminary Examining Authority shall notify the applicant accordingly.

60.1(c)	—	61.1(b)	The demand must be considered as if it had not been submitted if the handling fee is not paid in time (Rule 57.4(c)) or where the invitation to correct certain defects in the demand is not complied with in time (Rule 60.1(c)).
60.1(d)	—		
60.2(a)	Rule 56 deals with the form and contents of the notice of later election.		
60.2(b)	Rule 57.5(b) deals with the case where the supplement to the handling fee is paid later than the submission of the notice of later election.		
60.2(c)	—		
60.3	—		
<i>Notes on Rule 61: Notification of the Demand and Elections</i>			
In general: Article 31(1), (b), (7)			
61.1(a)	The date referred to in Rule 60.1(b) is the date on which the correction, or late payment of the fee, was received.		

(c) The International Bureau shall promptly notify the International Preliminary Examining Authority and the applicant of the receipt, and the date of receipt, of any later election. That date shall be the actual date of receipt by the International Bureau or, where applicable, the date referred to in Rule 60.2(b). Where the later election has been considered under Rules 57.5(c) or 60.2(c) as if it had not been submitted, the International Bureau shall notify the applicant accordingly.

61.2 *Notifications 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 name of the receiving Office, 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 later elections – the date of receipt by the International Bureau of the later election.

(c) The notification shall be sent to the elected Office promptly after the expiration of the 18th month from the priority date, or, if the international preliminary examination report is communicated earlier, then, at the same time as the communication of that report. Elections effected after such notification shall be notified promptly after they have been effected.

61.3 *Information for the Applicant*

The International Bureau shall inform the applicant in writing that it has effected the notification referred to in Rule 61.2. At the same time, it shall indicate to him, in respect of each elected State, any applicable time limit under Article 39(1)(b).

Rule 62

Copy for the International Preliminary Examining Authority

62.1 *The International Application*

(a) Where the competent International Preliminary Examining Authority is part of the same national Office or intergovernmental organization as the competent International Searching Authority, the same file shall serve the purposes of international search and international preliminary examination.

61.1(c)	The date referred to in Rule 60.2(b) is the date on which the correction of the defects in the notice of later election or the belatedly paid supplement to the handling fee was received. The notice of later election must be considered as if it had not been submitted if the supplement to the handling fee is not paid in time (Rule 57.5(c)) or where the invitation to correct certain defects in the notice of later election is not complied with in time (Rule 60.2(c)).	Notes on Rule 62: <i>Copy for the International Preliminary Examining Authority</i>
		In general: Articles 31(1); 34(1)
		62.1(a) –
61.2(a)	Under Article 31(7), each elected Office is notified of its election.	
61.2(b)	–	
61.2(c)	–	
61.3	Under Article 39(1)(b), any national law may, for furnishing the copy and translation of the international application and for paying the national fee, fix time limits which expire later than the 25 th month from the priority date.	

(b) Where the competent International Searching Authority is not part of the same national Office or intergovernmental organization as the competent International Preliminary Examining Authority, the International Bureau shall, promptly upon receipt of the international search report or, if the demand was received after the international search report, promptly upon receipt of the demand, send a copy of the international application and the international search report to the said Preliminary Examining Authority. In cases where, instead of the international search report, a declaration under Article 17(2)(a) has issued, references in the preceding sentence to the international search report shall be considered references to the said declaration.

62.2 Amendments

(a) Any amendment filed under Article 19 shall be promptly transmitted by the International Bureau to the International Preliminary Examining Authority. If, at the time of filing such amendments, a demand for international preliminary examination has already been submitted, the applicant shall, 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.

(b) If the time limit for filing amendments under Article 19 (see Rule 46.1) has expired without the applicant's having filed amendments under that Article, or if the applicant has declared that he does not wish to make amendments under that Article, the International Bureau shall notify the International Preliminary Examining Authority accordingly.

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.

62.1(b)	As to the declaration referred to in Article 17(2)(a), see the note on Rule 32.1(d).	<i>Notes on Rule 63: Minimum Requirements for International Preliminary Examining Authorities</i>
62.2(a)	Amendments filed under Article 19 are amendments of the claims filed with the International Bureau within the time limit provided for in Rule 46.1.	In general: Article 32(3)
62.2(b)	Rule 46.1 provides that the time limit referred to in Article 19 shall be 2 months from the date of transmittal of the international search report to the International Bureau and to the applicant by the International Searching Authority or, when such transmittal takes place before the expiration of 14 months from the priority date, 3 months from the date of such transmittal.	63.1 Article 32(3) refers to Article 16(3). Subparagraph (c) of the latter specifies the minimum requirements. 63.1(i) – 63.1(ii) Rule 34 lists the documents that constitute the "minimum documentation." 63.1(iii) As to Rule 34, see the preceding note.

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 after 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, as such, after 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.

Notes on Rule 64: Prior Art for International Preliminary Examination 64.3

In general: Article 33(2), (3); Rule 88.1(v)

64.1(a) “For the purposes of Article 33(2) and (3)” means for the purposes of international preliminary examination as to novelty and inventive step (non-obviousness).

64.1(b) –

64.2 “For the purposes of Article 33(2) and (3)” means for the purposes of international preliminary examination as to novelty and inventive step (non-obviousness). Rule 70.9 provides that 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.

“For the purposes of Article 33(2) and (3)” means for the purposes of international preliminary examination as to novelty and inventive step (non-obviousness). Rule 70.10 provides that 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.

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*

Before the international preliminary examination starts, the applicant may make amendments according to Article 34(2)(b) and the international preliminary examination shall initially be directed to the claims, the description, and the drawings, as contained in the international application at the time the international preliminary examination starts.

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

- (a) If the International Preliminary Examining Authority
- (i) considers that the international application has any of the defects described in Article 34(4),
 - (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,

Notes on Rule 65: Inventive Step or Non-Obviousness

In general: Article 33(3)

65.1 "For the purposes of Article 33(3)" means for the purposes of international preliminary examination as to inventive step or non-obviousness. 66.2(a)(i)

65.2 As to Article 33(3), see the preceding note. The date prescribed in Rule 64.1 is the international filing date; however, where the priority of an earlier application is claimed, the date prescribed in Rule 64.1 is the filing date of such earlier application.

Notes on Rule 66: Procedure Before the International Preliminary Examining Authority

In general: Article 34

66.1 Article 34(2)(b) provides that 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, 66.2(a)(ii) to (v) –

before the international preliminary examination report is established. The amendment must not go beyond the disclosure in the international application as filed.

The defects described under Article 34(4) are 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 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.

- (iv) considers that any amendment goes beyond the disclosure in the international application as filed, or
- (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,

the said Authority 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 or corrections.

(d) The notification shall fix a time limit for the reply. The time limit shall be reasonable under the circumstances. It shall normally be 2 months after the date of notification. In no case shall it be shorter than 1 month after the said date. It shall be at least 2 months after the said date where the international search report is transmitted at the same time as the notification. In no case shall it be more than 3 months after the said date.

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 corrections 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 Amendment or Correction*

(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 corrections.

66.5 *Amendment*

Any change, other than the rectification of obvious errors of transcription, 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.

66.2(b)	–
66.2(c)	–
66.2(d)	–
66.3	–
66.4	–
66.5	–
66.6	–

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, provided that, where the request is made before the International Bureau has received the priority document under Rule 17.1(a), the applicant shall furnish such copy to the International Bureau and directly to the International Preliminary Examining Authority.

(b) If the application whose priority is claimed is in a language other than the language or one of the languages of the International Preliminary Examining Authority, the applicant shall furnish, on invitation, a translation in the said language or one of the said languages.

(c) The copy to be furnished by the applicant under paragraph (a) and the translation referred to in paragraph (b) shall be furnished not later than by the expiration of 2 months from the date of the request or invitation. If they are not furnished within that time limit, the international preliminary examination report shall be established as if the priority had not been claimed.

66.8 *Form of Corrections and Amendments*

(a) The applicant shall be required to submit a replacement sheet for every sheet of the international application which, on account of a correction or amendment, differs from the sheet originally filed. The letter accompanying the replacement sheets shall draw attention to the differences between the replaced sheets and the replacement sheets. To the extent that any amendment results in the cancellation of an entire sheet, that amendment shall be communicated in a letter.

(b) The International Preliminary Examining Authority shall mark on each replacement sheet the international application number, the date on which it was received, and the stamp identifying the said Authority. It shall keep in its files any replaced sheet, the letter accompanying the replacement sheet or sheets, and any letter referred to in the last sentence of paragraph (a).

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:

66.7(a)	Rule 17.1(a) provides that the priority document, unless already filed with the receiving Office, must be submitted by the applicant to the International Bureau not later than 16 months after the priority date or, where, on the request of the applicant, processing or examination starts earlier, not later than at the time the processing or examination is requested.	Notes on Rule 67: <i>Subject Matter under Article 34(4)(a)(i)</i> In general: Article 34(4)(a)(i); Rule 88.3(iii) 67.1 —
66.7(b)	—	
66.7(c)	—	
66.8	—	

- (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 establish the international preliminary examination report, subject to Article 34(4)(b), in respect of the entire international application, but shall indicate, in the said report, that, in its opinion, the requirement of unity of invention is not fulfilled and shall specify the reasons for which the international application is not considered as complying with the requirement of unity of invention.

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 1 month, and it shall not be longer than 2 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.

Notes on Rule 68: Lack of Unity of Invention (International Preliminary Examination)

In general: Article 34(3)

68.1 Article 34(4)(b) provides in effect that if any of the defects referred to in the note on Rule 66.2(a)(i) is found to exist in, or in connection with, certain claims only, the International Preliminary Examining Authority will, in respect of the said claims, not go into the questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), and to be industrially applicable.

68.2

—

68.3(a)

The additional fee due under Article 34(3)(a) is due when the international application does not comply with the requirement of unity of invention.

68.3(b)

As to Article 34(3)(a), see the preceding note.

(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.

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 **Time Limit for International Preliminary Examination**

69.1 *Time Limit for International Preliminary Examination*

(a) All agreements concluded with International Preliminary Examining Authorities shall provide for the same time limit for the establishment of the international preliminary examination report. This time limit shall not exceed:

- (i) 6 months after the start of the international preliminary examination,
- (ii) in cases where the International Preliminary Examining Authority issues an invitation to restrict the claims or pay additional fees (Article 34(3)), 8 months after the start of the international preliminary examination.

(b) International preliminary examination shall start upon receipt, by the International Preliminary Examining Authority:

- (i) under Rule 62.2(a), of the claims as amended under Article 19, or
- (ii) under Rule 62.2(b), of a notice from the International Bureau that no amendments under Article 19 have been filed within the prescribed time limit or that the applicant has declared that he does not wish to make such amendments, or

<p>68.3(c) –</p> <p>68.3(d) –</p> <p>68.4 Proceeding as provided in Article 34(3)(c) in essence means that the International Preliminary Examining Authority establishes the report only on the main invention.</p> <p>68.5 As to Article 34(3)(c), see the preceding note.</p> <p><i>Notes on Rule 69: Time Limit for International Preliminary Examination</i></p> <p>In general: Article 35(1)</p> <p>69.1(a)(i) –</p> <p>69.1(a)(ii) Article 34(3) deals with the case where the international application does not comply with the requirement of unity of invention.</p>	<p>69.1(b)(i) Rule 62.2(a) deals with the situation where the claims were amended under Article 19, that is, before the International Bureau.</p> <p>69.1(b)(ii) Rule 62.2(b) deals with the situation where no use was made of the right to amend the claims under Article 19, that is, before the International Bureau.</p>
--	---

(iii) of a notice, after the international search report is in the possession of the International Preliminary Examining Authority, from the applicant expressing the wish that the international preliminary examination should start and be directed to the claims as specified in such notice, or

(iv) of a notice of the declaration by the International Searching Authority that no international search report will be established (Article 17(2)(a)).

(c) 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, start at the same time as the international search. In such a case, the international preliminary examination report shall be established, notwithstanding the provisions of paragraph (a), no later than 6 months after the expiration of the time limit allowed under Article 19 for amending the claims.

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(c), 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.

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, the name of the receiving Office, 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.

69.1(b)(iii)	–	70.2(a)	–
69.1(b)(iv)	As to Article 17(2)(a), see the note on Rule 32.1(d).	70.2(b)	The report is established – pursuant to Rule 66.7(c) – as if the priority had not been claimed when the priority document and its translation (where required) are not furnished within the prescribed time limit.
69.1(c)	The time limit allowed under Article 19 is fixed in Rule 46.1.		
<i>Notes on Rule 70: The International Preliminary Examination Report</i>		70.2(c)	–
In general:	Article 35	70.3	–
70.1	–	70.4	–

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.

70.5(a)	Under Rule 43.3, the International Searching Authority must indicate, in the international search report, the classification of the subject matter, at least according to the International Patent Classification.	70.7(b)	Rule 43.5(b) provides that the method of identifying any cited document is regulated by the Administrative Instructions. Rule 43.5(e) provides that if only certain passages of the cited document are relevant or particularly relevant, they shall be identified, for example, by indicating the page, the column, or the lines, where such passages appear.
70.5(b)	—		
70.6(a)	The statement referred to in Article 35(2) is a statement on the question whether the claim appears to satisfy the criteria of novelty, inventive step (non-obviousness) and industrial applicability. As to the Administrative Instructions, see Rule 89.	70.8	The explanations referred to in Article 35(2) are "such explanations as the circumstances of the case may require." As to the Administrative Instructions, see Rule 89.
70.6(b)	As to Article 35(2), see the preceding note.	70.9	—
70.7(a)	As to Article 35(2), see the note on Rule 70.6(a).		

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 or Correction of Certain Defects*

If, before the International Preliminary Examining Authority, amendments or corrections have been made, this fact shall be indicated in the report.

70.12 *Mention of Certain Defects*

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.

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.

70.14 *Signature*

The report shall be signed by an authorized officer of the International Preliminary Examining Authority.

70.15 *Form*

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

70.10	–
70.11	–
70.12(i)	The defects referred to in Rule 66.2(a)(iii) are defects in the form or contents of the international application.
70.12(ii)	The observations referred to in Rule 66.2(a)(v) are observations on the clarity of the claims, the description, and the drawings, or the question whether the claims are fully supported by the description.
70.13	International preliminary examination is restricted under Article 34(3) to the claims which the applicant chose as complying with the requirement of unity of invention, or which the International Preliminary Examining Authority considers to be the main invention.
70.14	–
70.15	As to the Administrative Instructions, see Rule 89.

70.16 *Attachment of Corrections and Amendments*

If the claims, the description, or the drawings, were amended or any part of the international application was corrected before the International Preliminary Examining Authority, each replacement sheet marked as provided in Rule 66.8(b) shall be attached to the report as an annex thereto. Replacement sheets superseded by later replacement sheets shall not be attached. If the amendment is communicated in a letter, a copy of such letter shall also be annexed to the report.

70.17 *Languages of the Report and the Annexes*

(a) The report shall be in the language in which the international application to which it relates is published.

(b) Any annex shall be both in the language in which the international application to which it relates was filed and also, if it is different, in the language in which the international application to which it relates is published.

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 7 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) Any International Preliminary Examining Authority not wishing to send copies direct to any elected Office shall send a copy to the International Bureau and the International Bureau shall then proceed as provided in paragraphs (a) and (b).

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

70.16	The markings required by Rule 66.8(b) are the international application number, the date on which the replacement sheet was received, and a stamp identifying the International Preliminary Examining Authority.	71.2(b)	–
		71.2(c)	–
		71.2(d)	–
70.17	–		
<i>Notes on Rule 71: Transmittal of the International Preliminary Examination Report</i>			
In general:	Article 36(1), (4)		
71.1	–		
71.2(a)	The request under Article 36(4) is a request for the sending of copies of the documents additionally cited in the international preliminary examination report (cf. Article 20(3)).		

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, French, German, Japanese, Russian, or Spanish.

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

72.2 *Copies of Translations for the Applicant*

The International Bureau shall transmit a copy of each translation 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.

Notes on Rule 72: Translation of the International Preliminary Examination Report

In general: Article 36(2)

72.1(a) –

72.1(b) As to the Gazette, see Rule 86.

72.2 –

72.3 –

Notes on Rule 73: Communication of the International Preliminary Examination Report

In general: Article 36(3)(a)

73.1 The documents to be communicated under Article 36(3)(a) are the international preliminary examination report, its translation (where one is required), and its annexes (if any).

73.2 The communication provided for in Article 36(3)(a) is the communication of the documents referred to in the preceding note by the International Bureau to each elected Office.

Rule 74
Translations of Annexes of the International
Preliminary Examination Report and Transmittal Thereof

74.1 *Time Limit*

Any replacement sheet referred to in Rule 70.16, or any amendment referred to in the last sentence of that Rule which was filed prior to the furnishing of the translation of the international application required under Article 39, or, where the furnishing of such translation is governed by Article 64(2)(a)(i), which was filed prior to the furnishing of the translation of the international application required under Article 22, shall be translated and transmitted together with the furnishing under Article 39 or, where applicable, under Article 22, or, if filed less than 1 month before such furnishing or if filed after such furnishing, 1 month after it has been filed.

Rule 75
Withdrawal of the Demand, or of Elections

75.1 *Withdrawals*

(a) Withdrawal of the demand or all the elections may be effected prior to the expiration of 25 months from the priority date except as to any elected State in which national processing or examination has already started. Withdrawal of the election of any elected State may be effected prior to the date on which examination and processing may start in that State.

(b) Withdrawal shall be effected by a signed notice from the applicant to the International Bureau. In the case of Rule 4.8(b), the notice shall require the signature of all the applicants.

75.2 *Notification of Elected Offices*

(a) The fact that the demand or all elections have been withdrawn shall be promptly notified by the International Bureau to the national Offices of all States which, up to the time of the withdrawal, were elected States and had been informed of their election.

(b) The fact that any election has been withdrawn and the date of receipt of the withdrawal shall be promptly notified by the International Bureau to the elected Office concerned, except where it has not yet been informed that it had been elected.

Notes on Rule 74: Translations of Annexes of the International Preliminary Examination Report and Transmittal Thereof

In general: Article 36(2)(b), (3)(b)

74.1 The replacement sheet referred to in Rule 70.16 is a sheet containing amendments and/or corrections. Amendments referred to in the last sentence of Rule 70.16 are amendments communicated in a letter (rather than on a replacement sheet). A translation of the international application is required under Article 39 and according to Rule 76. The furnishing of such translation is governed by Article 64(2)(a)(i) where a State, although accepting Chapter II, has declared, in effect, that it wishes its national Office to be furnished with a translation by the expiration of the 20th (rather than the 25th) month from the priority date. The translation required under Article 22 must normally be furnished by the expiration of the 20th month from the priority date.

Notes on Rule 75: Withdrawal of the Demand, or of Elections

In general: Article 37

75.1(a) —

75.1(b) The case of Rule 4.8(b) is the case of several applicants not having a common agent and not having appointed one among themselves as their common representative.

75.2 —

75.3 *Notification of the International Preliminary Examining Authority*

The fact that the demand or all elections have been withdrawn shall be promptly notified by the International Bureau to the International Preliminary Examining Authority if, at the time of the withdrawal, the latter had been informed of the existence of the demand.

75.4 *Faculty under Article 37(4)(b)*

(a) Any Contracting State wishing to take advantage of the faculty provided for in Article 37(4)(b) shall notify the International Bureau in writing.

(b) The notification under 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 1 month after the publication date of the relevant issue of the Gazette.

Rule 76

Languages of Translations and Amounts of Fees under Article 39(1); Translation of Priority Document

76.1 *Notification*

(a) Any Contracting State requiring the furnishing of a translation or the payment of a national fee, or both, under Article 39(1), shall notify the International Bureau of:

(i) the languages from which and the language into which it requires translation,

(ii) the amount of the national fee.

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

(c) If the requirements under paragraph (a) change later, such changes shall be notified by the Contracting State to the International Bureau and that Bureau shall promptly publish the notification in the Gazette. If the change means that translation is required into a language which, before the change, was not required, such change shall be effective only with respect to a demand submitted later than 2 months after the publication of the notification in the Gazette. Otherwise, the effective date of any change shall be determined by the Contracting State.

75.3	–	76.1(a)	Article 39(1) provides that the applicant must furnish to each elected Office, not later than at the expiration of the 25 th month from the priority date, a copy and a translation of the international application, and must pay to it (by the same time) the national fee.
75.4(a)	The faculty provided for in Article 37(4)(b) is the faculty described in the second sentence of the said provision. The first and the second sentences of that provision read as follows: “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.”	76.1(b)	As to the Gazette, see Rule 86.
75.4(b)	As to the Gazette, see Rule 86.	76.1(c)	As to the Gazette, see Rule 86.
<p><i>Notes on Rule 76: Languages of Translations and Amounts of Fees under Article 39(1); Translation of Priority Document</i></p>			
<p>In general: Article 39</p>			

76.2 *Languages*

The language into which translation may be required must be an official language of the elected Office. If there are several of such languages, no translation may be required if the international application is in one of them. If there are several official languages and a translation must be furnished, the applicant may choose any of those languages. Notwithstanding the foregoing provisions of this paragraph, if there are several official languages but the national law prescribes the use of one such language for foreigners, a translation into that language may be required.

76.3 *Statements under Article 19*

For the purposes of Article 39 and the present Rule, any statement made under Article 19(1) shall be considered as part of the international application.

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.

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 3 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.

76.2	–
76.3	“For the purposes of Article 39” means for the purposes of furnishing to each elected Office. The statement under Article 19(1) is the statement explaining the amendments of the claims filed with the International Bureau and indicating the impact that such amendments might have on the description and drawings.
76.4	The applicable time limit under Article 39 is normally 25 months from the priority date.

Notes on Rule 77: Faculty under Article 39(1)(b)

In general:	Article 39(1)(b)
77.1(a)	The time limit provided for in Article 39(1)(a) is 25 months from the priority date.
77.1(b)	As to the Gazette, see Rule 86.
77.1(c)	–
77.1(d)	As to the Gazette, see Rule 86.

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 after the transmittal of the international preliminary examination report under Article 36(1) has been effected and before the time limit applicable under Article 39 expires, provided that, if the said transmittal has not taken place by the expiration of the time limit applicable under Article 39, he shall exercise the said right not later than on 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 Article 39.

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.

Notes on Rule 78: Amendment of the Claims, the Description, and the Drawings, Before Elected Offices 78.3

In general: Article 41

78.1(a) The right under Article 41 is the right to amend the application before the elected Offices. The transmittal under Article 36(1) is a transmittal by the International Preliminary Examining Authority to the applicant. The time limit under Article 39 is normally 25 months from the priority date.

78.1(b) The time limit applicable under Article 39 is normally 25 months from the priority date. As to the right under Article 41, see the preceding note.

78.2 Amendments under Article 41 are amendments made before elected Offices. The time limit for making amendments under Article 28 is fixed in Rule 52.1.

Rule 6.5 deals with the manner of claiming in the case of utility models. Rule 13.5 deals with the concept of unity of invention in the case of utility models. The time limit under Articles 22 and 39 are, normally, 20 months and 25 months, respectively, from the priority date.

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.

Notes on Rule 79: Calendar

	80.3	—
In general: Article 47(1)	80.4	—
79.1		—

Notes on Rule 80: Computation of Time Limits

In general: Article 47(1)	
80.1	—
80.2	—

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*

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.

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.

(c) The International Bureau shall be open for business until 6 p.m.

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 2 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 3 months from the date of the invitation.

80.5	–		
80.6	–		
80.7	–		
<i>Notes on Rule 81: Modification of Time Limits Fixed in the Treaty</i>		81.1(b)	–
In general:	Article 47(2)(c); Rule 88.1(vi)	81.2	–
81.1(a)	Article 47(2)(a) and (b) provide that all time limits fixed in Chapters I and 11 may, outside	81.3	–

a revision conference, be modified by a unanimous decision of the Contracting States made in the Assembly or through voting by correspondence.

(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) Subject to the provisions of Rule 22.3, any interested party may offer evidence that he has mailed the document or letter 5 days prior to the expiration of the time limit. Except in cases where surface mail normally arrives at its destination within 2 days of mailing, or where no airmail service is available, such evidence may be offered only if the mailing was by airmail. In any case, evidence may be offered only if the mailing was by mail registered by the postal authorities.

(b) If such mailing 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, shall be submitted within 1 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 6 months after the expiration of the time limit applicable in the given case.

82.2 *Interruption in the Mail Service*

(a) Subject to the provisions of Rule 22.3, 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 5 days after the mail service was resumed. The provisions of Rule 82.1(c) shall apply *mutatis mutandis*.

Notes on Rule 82: Irregularities in the Mail Service

In general: Article 48(1)

82.1(a) Rule 22.3(b) provides that Article 48(1) and Rule 82 are inapplicable to the transmittal of the record copy. In other words, the 13 and 14 months time limits provided for the transmittal of the record copy to the International Bureau cannot be prolonged on account of irregularities in the mail service. Rule 22.3(b) also provides that Article 48(2) remains applicable. That provision obliges the Contracting States to excuse, for reasons admitted under their national laws, any delay

in meeting any time limit, and allows the Contracting States to excuse delays which they are not obliged to excuse under the Treaty or their national laws.

82.1(b) –

82.1(c) –

82.2(a) As to Rule 22.3, see the note on Rule 82.1(a).

82.2(b) –

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 3 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.

Notes on Rule 83: Right to Practice Before International Authorities

In general: Article 49

83.1 Article 49 provides that any attorney, patent agent, or other person, having the right to practice before the national Office with which the international application was filed, is entitled to practice before the International Bureau and the competent International Searching Authority and competent International Preliminary Examining Authority in respect of that application.

83.2

Notes on Rule 84: Expenses of Delegations

In general: Article 58(1)(iii)

84.1 —

Notes on Rule 85: Absence of Quorum in the Assembly

In general: Article 53(5)(b)

85.1 The case provided for in Article 53(5)(b) is the case where there is no quorum in the Assembly. (One-half of the Contracting States constitutes a quorum (see Article 53(5)(a)).

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 Gazette shall be published once a week.

86.4 *Sale*

The subscription and other sale prices of the Gazette shall be fixed in the Administrative Instructions.

86.5 *Title*

The title of the Gazette shall be "Gazette of International Patent Applications," and "Gazette des Demandes internationales de brevets," respectively.

Notes on Rule 86: The Gazette

In general: Article 55(4)

86.1 Article 55(4) provides that the International Bureau must publish a Gazette.

86.1(i) Rule 48 deals with the publication of the international application in the form of a pamphlet. As to the Administrative Instructions, see Rule 89.

86.1(ii) —

86.1(iii) The notices the publication of which is required under the Regulations are referred to in Rules 4.10(c), 19.3(b), 22.4, 23.1(c), 34.1(b), 35.2(b), 48.6, 49.1(b)(c), 50.1(b), 59.1, 72.1(b), 75.4(b), 76.1(b)(c), 77.1(b), 89.3.

86.1(iv) The requirements provided for in Articles 22 and 39 are the requirements of furnishing a copy and a translation of the international

application to the designated (elected) Office and of paying the national fee to such Office normally, within 20 (25) months from the priority date.

86.1(v) As to the Administrative Instructions, see Rule 89.

86.2 —

86.3 —

86.4 As to the Administrative Instructions, see Rule 89.

86.5 —

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, which shall be made, in respect of each year, by November 30 of the preceding year. If any publication is available in more than one language, the request shall specify the language 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) Rule 22.2 (Transmittal of the Record Copy; Alternative Procedure),
- (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).

86.6 As to the Administrative Instructions, see Rule 89.

Notes on Rule 87: Copies of Publications

In general: Article 58(1)(iii)

87.1 –

87.2 –

Notes on Rule 88: Amendment of the Regulations

In general: Article 58(3)(a)(b)

88.1(i) and (ii) –

88.1(iii) The time limit under Article 12(3) is the time limit (13 or 14 months from the priority date) within which the record copy must reach the International Bureau.

88.1(iv) to (vii) –

88.2 *Requirement of Unanimity During a Transitional Period*

During the first 5 years after the entry into force of the Treaty, 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 5 (The Description),
- (ii) Rule 6 (The Claims),
- (iii) the present paragraph (i.e., Rule 88.2).

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, 88.2 or 88.3, shall, if the proposal is to be decided upon in the Assembly, be communicated to all Contracting States at least 2 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.

88.2	–	<i>Notes on Rule 89: Administrative Instructions</i>
88.3	The States referred to in Article 58(3)(a)(ii) are the Contracting States whose national Offices act as International Searching or Preliminary Examining Authorities and that Contracting State which is authorized to represent an International Searching or Preliminary Examining Authority which is an intergovernmental organization.	In general: Article 58(4) 89.1(a)(i) The Administrative Instructions are expressly referred to in Rules 3.4, 5.1(c), 6.1(c), 20.1(b), 43.5(b), 43.10, 48.1(b), 48.2(b)(i), 48.2(i), 48.4(a), 53.1(c), 70.6(a), 70.8, 70.15, 86.1(i), 86.1(v), 86.4, 86.6.
88.3(i)	–	89.1(a)(ii) –
88.3(ii)	The subject matter under Article 17(2)(a)(i) is the subject matter which the International Searching Authority is not required to search.	89.1(b) –
88.3(iii)	The subject matter under Article 34(4)(a)(i) is the subject matter on which the International Preliminary Examining Authority is not required to carry out an international preliminary examination.	
88.3(iv)	–	
88.4	–	

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 Representation

90.1 *Definitions*

For the purposes of Rule 90.2 and Rule 90.3:

(i) “agent” means any of the persons referred to in Article 49;

(ii) “common representative” means the applicant referred to in Rule 4.8.

90.2 *Effects*

(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 having appointed the agent.

(b) 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.

(c) If there are several agents appointed by the same applicant or applicants, any act by or in relation to any of the several agents shall have the effect of an act by or in relation to the said applicant or applicants.

(d) The effects described in paragraphs (a), (b), and (c), shall apply to the processing of the international application before the receiving Office, the International Bureau, the International Searching Authority, and the International Preliminary Examining Authority.

<p>89.2 –</p> <p>89.3(a) As to the Gazette, see Rule 86.</p> <p>89.3(b) –</p> <p><i>Notes on Rule 90: Representation</i></p> <p>In general: Article 58(1)(iii)</p> <p>90.1 –</p> <p>90.1(i) The persons referred to in Article 49 are attorneys, patent agents, and other persons, having the right to practice before the national Office with which the international application was filed.</p>	<p>90.1(ii) The applicant referred to in Rule 4.8 is the applicant who, where there are several applicants, represents all the applicants.</p> <p>90.2 –</p>
--	--

90.3 *Appointment*

(a) Appointment of any agent or of any common representative within the meaning of Rule 4.8(a), if the said agent or common representative is not designated in the request signed by all applicants, shall be effected in a separate signed power of attorney (i.e., a document appointing an agent or a common representative).

(b) The power of attorney may be submitted to the receiving Office or the International Bureau. Whichever of the two is the recipient of the power of attorney submitted shall immediately notify the other and the interested International Searching Authority and the interested International Preliminary Examining Authority.

(c) If the separate power of attorney is not signed as provided in paragraph (a), 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 nonexistent unless the defect is corrected.

90.4 *Revocation*

(a) Any appointment may be revoked by the persons who have made the appointment or their successors in title.

(b) Rule 90.3 shall apply, *mutatis mutandis*, to the document containing the revocation.

Rule 91 Obvious Errors of Transcription

91.1 *Rectification*

(a) Subject to paragraphs (b) to (g), obvious errors of transcription 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 of transcription. 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 of transcription may invite the applicant to present a request for rectification as provided in paragraphs (e) to (g).

90.3(a)	A common representative within the meaning of Rule 4.8(a) is, where there are several applicants, the applicant whom the other applicants have designated to represent all of them provided that such an applicant is a person entitled to file an international application with the receiving Office.	91.1(a)	–
		91.1(b)	–
		91.1(c)	–
		91.1(d)	–
90.3(b)	–		
90.3(c)	Rule 4.4 provides the manner in which names and addresses must be indicated.		
90.4	–		

Notes on Rule 91: Obvious Errors of Transcription

In general: Article 58(1)(iii)

- (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) The date of the authorization shall be recorded in the files of the international application.
- (g) The authorization for rectification referred to in paragraph (e) may be given until the following events occur:
- (i) in the case of authorization given by the receiving Office and the International Bureau, the communication of the international application under Article 20;
 - (ii) in the case of authorization given by the International Searching Authority, the establishment of the international search report or the making of a declaration under Article 17(2)(a);
 - (iii) in the case of authorization given by the International Preliminary Examining Authority, the establishment of the international preliminary examination report.
- (h) Any authority, other than the International Bureau, which authorizes any rectification shall promptly inform the International Bureau of such rectification.

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 paper shall be considered not to have been submitted.

92.2 *Languages*

- (a) Subject to the provisions of paragraphs (b) and (c), 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.
- (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.

91.1(e)	–	<i>Notes on Rule 92: Correspondence</i>
91.1(f)	–	In general: Article 58(1)(iii)
91.1(g)(i)	The communication under Article 20 is effected at the time provided for in Rule 47.1(b).	92.1 – 92.2(a) – 92.2(b) –
91.1(g)(ii)	As to the declaration under Article 17(2)(a), see the note on Rule 32.1(d).	92.2(b) –
91.1(g)(iii)	–	
91.1(h)	–	

(c) When a translation is required under Rule 55.2, the International Preliminary Examining Authority may require that any letter from the applicant to the said Authority be in the language of that translation.

(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.

93.3 *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 registered air mail, provided that surface mail may be used instead of air mail in cases where surface mail normally arrives at its destination within 2 days from mailing or where air mail service is not available.

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).

92.2(c)	Rule 55.2(a) provides that "if the competent International Preliminary Examining Authority is not part of the same national Office or intergovernmental organization as the competent International Searching Authority, and if the international application is in a language other than the language, or one of the languages, specified in the agreement concluded between the International Bureau and the International Preliminary Examining Authority competent for the international preliminary examination, the latter may require that the applicant submit a translation of that application."	<i>Notes on Rule 93: Keeping of Records and Files</i>
		In general: Article 58(1)(iii)
		93.1 —
		93.2 —
		93.3 —
		93.4 —
92.2(d)	—	
92.2(e)	—	
92.3	—	

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).

*Notes on Rule 94: Furnishing of Copies by the
International Bureau and the
International Preliminary Examining
Authority*

In general: Article 58(1)(iii)

94.1 –

Notes on Rule 95: Availability of Translations

In general: Articles 55(5); 58(1)(iii)

95.1 –

