

WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

**INTERNATIONAL PATENT COOPERATION UNION
(PCT UNION)**

ASSEMBLY

**Twenty-Fourth Session (11th Ordinary)
Geneva, September 16 to October 1, 1997**

REPORT

adopted by the Assembly

1. The Assembly, which opened its session on September 16, 1997, was concerned with the following items of the Consolidated Agenda of the thirty-first series of meetings (September-October 1997) of the Governing Bodies of WIPO (document AB/XXXI/1 Prov.2): 2, 5, 6, 10, 21, 28, 29 and 30.
2. The report on the said items, with the exception of item 10, is contained in the General Report (document AB/XXXI/12). The list of participants in the Assembly for the period from September 16 to 19, 1997, appears in document PCT/A/XXIV/INF/1.
3. The report on item 10 is contained in the present document.

ITEM 10 OF THE CONSOLIDATED AGENDA:

MATTERS CONCERNING THE PCT UNION

OPENING OF THE SESSION

4. The session was opened by Mr. François Curchod, Deputy Director General.

ELECTION OF A CHAIRMAN AND TWO VICE-CHAIRMEN

5. Mr. Bruce Murray (Australia) was elected Chairman of the Assembly; Mr. Jorge Amigo Castañeda (Mexico) and Mr. Jan-Eric Bodin (Sweden) were elected Vice-Chairmen. When the Assembly met to adopt the present report, the Chairman and both Vice-Chairmen being absent, Mr. Roland Grossenbacher (Switzerland) was elected Acting Chairman.

ADOPTION OF THE AGENDA

6. The Assembly adopted, in connection with matters falling under item 10 of the Consolidated Agenda, the agenda appearing in Annex I to this report.
7. Other matters considered by the Assembly are contained in the Consolidated Agenda (see paragraph 1, above).

INTERNATIONAL SEARCHING AUTHORITIES AND INTERNATIONAL
PRELIMINARY EXAMINING AUTHORITIES: EXTENSION OF APPOINTMENTS;
RENEWAL OF THE AGREEMENTS WITH THE INTERNATIONAL BUREAU

8. Discussions were based on documents PCT/A/XXIV/3 and 3 Corr. (French only), relating to the proposed extension, under Articles¹ 16 and 32, of the appointments of the Australian Patent Office, the Austrian Patent Office, the Chinese Patent Office, the European Patent Office, the Japanese Patent Office, the Russian Agency for Patents and Trademarks, the Swedish Patent and Registration Office, and the United States Patent and Trademark Office as International Searching Authorities and International Preliminary Examining Authorities, and of the Spanish Patent and Trademark Office as an International Searching Authority.

9. The Assembly:

(i) approved the texts of the Agreements with the International Bureau appearing in Appendices I to IX to document PCT/A/XXIV/3, subject to the

¹ References in this document to “Articles,” “Rules” and “Sections” are, respectively, to those of the Patent Cooperation Treaty (PCT), of the Regulations under the PCT (“the Regulations”) and of the Administrative Instructions under the PCT (“the Administrative Instructions”), or to such provisions as proposed to be amended or added, as the case may be.

modifications to the French texts thereof appearing in document PCT/A/XXIV/3 Corr., relating to the functions of the Authorities mentioned in the previous paragraph;

- (ii) extended the appointments of those Authorities until December 31, 2007.

APPOINTMENT OF THE KOREAN INDUSTRIAL PROPERTY OFFICE AS AN
INTERNATIONAL SEARCHING AUTHORITY AND
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

10. Discussions were based on documents PCT/A/XXIV/4 and 4 Corr. (French only).

11. In response to an invitation by the Chairman and pursuant to Article 16(3)(e), the Delegation of the Republic of Korea made a statement to the Assembly, the text of which appears in Annex II to this report.

12. The Assembly noted the recommendation made by the PCT Committee for Technical Cooperation at its nineteenth session held in Geneva from May 26 to 30, 1997 (see document PCT/CTC/XIX/5, paragraphs 6 to 11), that the Assembly appoint the Korean Industrial Property Office as an International Searching Authority and International Preliminary Examining Authority, provided that the appointment should take effect upon entry into force of the Agreement between the Office and the International Bureau in relation to the functioning of the Office as an International Searching Authority and International Preliminary Examining Authority, and that such entry into force should be one month after the date on which the Office notified the Director General of WIPO that it had in its possession the PCT minimum documentation referred to in Rule 34, properly arranged for search purposes, including both

- (a) the complete collection of patent documents referred to in Rule 34.1(b)(i) and (ii), including the missing documents indicated in document PCT/CTC/XIX/3, and
- (b) the non-patent literature as published in the PCT List of Periodicals to Be Used for Search and Examination according to Rule 34.1(b)(iii), including all missing items,

and noted, in this connection, that the draft Agreement appearing in Appendix II to document PCT/A/XXIV/4 made provision accordingly.

13. The Assembly:

- (i) approved the text of the Agreement between the Korean Industrial Property Office and the International Bureau appearing in Appendix II to document PCT/A/XXIV/4, subject to the modification of the French text thereof appearing in document PCT/A/XXIV/4 Corr.;

- (ii) appointed the Korean Industrial Property Office as an International Searching Authority and International Preliminary Examining Authority, with effect from the entry into force of that Agreement, until December 31, 2007.

14. The Delegations of Japan, the United States of America and France, and the Representative of the European Patent Organisation, congratulated the Korean Industrial Property Office on its appointment and assured the Korean Industrial Property Office of their continued support. The Chairman congratulated the Korean Industrial Property Office on behalf of the Assembly.

AMENDMENT OF THE REGULATIONS; DIRECTIVES OF THE ASSEMBLY
RELATING TO THE ESTABLISHMENT OF NEW EQUIVALENT AMOUNTS OF
CERTAIN FEES

15. The Assembly considered proposed amendments of the Regulations contained in documents PCT/A/XXIV/2, 6 and 7 (prepared by the International Bureau), PCT/A/XXIV/8 (proposal by the United States of America) and PCT/A/XXIV/9 (proposal by France), as well as a number of proposals presented during its session. The proposed amendments related to the following topics:

- (i) *PCT minimum documentation* (see document PCT/A/XXIV/2);
- (ii) *language of the international application* (see documents PCT/A/XXIV/6, paragraphs 8 to 17 and Annex I, and PCT/A/XXIV/8, pages 2 and 3);
- (iii) *electronic filing of international applications* (see documents PCT/A/XXIV/6, paragraphs 18 to 30 and Annex II, and PCT/A/XXIV/8, pages 4 and 5);
- (iv) *priority claims and priority documents* (see documents PCT/A/XXIV/6, paragraphs 31 to 44 and Annex III, and PCT/A/XXIV/8, page 6);
- (v) *deposits of biological materials* (see documents PCT/A/XXIV/6, paragraph 45 and Annex IV, and PCT/A/XXIV/8, page 7);
- (vi) *Rules and directives relating to fees* (see documents PCT/A/XXIV/2 and PCT/A/XXIV/6, paragraphs 46 to 56 and Annexes V and VI; as to the new amounts of certain PCT fees appearing in the Schedule of Fees, see paragraphs 43 and 44, below);
- (vii) *nucleotide and amino acid sequence listings* (see documents PCT/A/XXIV/7, paragraphs 8 to 11 and Annex I, and PCT/A/XXIV/8, pages 8 and 9);
- (viii) *PCT Gazette* (see documents PCT/A/XXIV/7, paragraphs 12 to 19 and Annex II, PCT/A/XXIV/8, page 10, and PCT/A/XXIV/9);
- (ix) *international preliminary examination* (see documents PCT/A/XXIV/7, paragraphs 20 to 27 and Annex III, and PCT/A/XXIV/8, page 11).

16. The Assembly unanimously adopted amendments of the Regulations as appearing in Annex III to this report (as to the new amounts of certain PCT fees appearing in the Schedule of Fees, see paragraphs 43 and 44, below), and decided:

- (i) that the amendments of the Regulations, with the exception of those referred to in items (ii) and (iii), below, would enter into force on July 1, 1998 (as to the new

amounts of certain PCT fees appearing in the Schedule of Fees, see paragraphs 43 and 44, below);

(ii) that the amendments of Rule 86 would enter into force on January 1, 1998, on the understanding noted in paragraph 37, below;

(iii) that new Rules 89*bis* and 89*ter* would enter into force at the same time as the modifications of the Administrative Instructions implementing those new Rules, the effective date to be included in the promulgation of those modifications by the Director General;

(iv) that Rule 94 as amended would apply only in respect of international applications filed on or after July 1, 1998, and that present Rule 94 would continue to apply after July 1, 1998, in respect of international applications filed before that date.

17. The Assembly unanimously adopted, with effect from July 1, 1998, modified directives relating to the establishment of new equivalent amounts of certain fees as appearing in Annex IV to this report, replacing those adopted at its third session held from April 25 to May 1, 1979 (see document PCT/A/III/11, paragraph 20).

18. Certain matters noted by the Assembly, by various delegations and by the International Bureau in connection with the amendments of the Regulations or in connection with particular Rules are set out in the following paragraphs.

Language of the international application

19. *Rules 12.3 and 55.2.* In connection with the adoption of Rule 12.3 and the amendment of Rule 55.2, the Assembly noted that there was no requirement for any Office or Authority to check the accuracy or completeness of any translation of the international application furnished under those Rules. The Assembly recognized the importance of the accuracy and completeness of any such translation, the ensuring of which was the responsibility of the applicant. However, the Assembly decided not to introduce a requirement for verification by the applicant for the purposes of the international phase, nor to permit the national law of any designated State to require verification, upon entry into the national phase, of any translation furnished under Rule 12.3 or 55.2.

20. *Rule 19.4.* The Assembly noted that the adoption of amendments of Rule 19.4(a) did not involve the making of any decision by the Assembly under Article 9(2).

21. *Rule 47.3.* In connection with the adoption of Rule 47.3(b), the International Bureau emphasized that it would be desirable to avoid having to send to every designated Office a copy of the international application in the language in which it was filed, whether or not the international application concerned had in fact entered the national phase. The International Bureau stated that it would seek to make arrangements with affected designated Offices so as to meet their particular needs in this regard, noting that the use of modern computer technology for the communication of documents between the International Bureau and designated Offices would facilitate solution of this problem in the future.

22. *Rule 48.3.* The Assembly noted that the International Bureau intended to have discussions with the International Searching Authorities and receiving Offices affected by the procedure under present Rule 48.3(b) with a view to its possible amendment, in the future, to make the procedure for preparation of translations under that Rule more similar to that to be followed under Rule 12.3.

Electronic filing of international applications

23. *Rule 89bis.* The Assembly noted, in relation to the question of what would be the legally determinative version of an international application filed in electronic form or by electronic means, that the Administrative Instructions would need to deal both with situations in which the electronic form of the international application was filed as the sole authentic version and also with those in which the paper version of the application may need to be referred to (for example, when evidence led to the questioning of the integrity of a document in electronic form and in cases where corruption of a document in electronic form had occurred).

24. The Assembly noted that the words “filed and processed” in Rule 89bis.1(a) were intended to cover all aspects of the filing and subsequent processing of international applications, including communications between Offices and authorities, and between applicants and Offices and authorities.

25. The Delegation of Japan, noting that the Japanese Patent Office had been the first to introduce a fully electronic filing procedure, stated, in relation to the provision of Rule 89bis.1(a) requiring any receiving Office to permit the filing of international applications on paper, that, although the Delegation did not oppose the inclusion of that requirement, the provision might need to be reviewed in the future.

26. The Assembly noted, in relation to the list contained in Rule 89bis.1(c) of subject matter areas which would need to be addressed in Sections of, or Annexes to, the Administrative Instructions in connection with the electronic filing of international applications, that the list was not intended to be exhaustive or comprehensive. It was clearly understood that all matters necessary for electronic filing and processing of applications may be governed by the Administrative Instructions even if not mentioned in the list of examples under Rule 89bis.1(c). The Assembly noted that it would be appropriate, in the future, to incorporate into the Regulations certain matters which would, in the first stages of implementation of electronic filing procedures, need to be dealt with in the Administrative Instructions.

27. The Assembly noted that Rule 89bis.3 would permit the scanning of, for example, a record copy or a demand, and transmittal to the International Bureau of the document so scanned in facsimile format, provided that the integrity and quality of reproduction from such documents in facsimile format were assured.

28. In response to comments by the Delegations of China and Kenya, the International Bureau emphasized that the needs of developing countries were being kept in mind in the context of the development of procedures for the filing and processing of international applications in electronic form and by electronic means, as well as in the context of developments discussed by the WIPO Working Group on Information Technologies for Intellectual Property, and that it was definitely the intention of the International Bureau to

assist developing countries so that they would benefit from the advantages associated with electronic filing and processing of patent applications, including international applications under the PCT.

29. *Rule 93.4.* The Assembly noted that Rule 93.4 as amended would enable the storage of records and files on computer-readable media, such as optical or magnetic disks or in microform.

Priority claims and priority documents

30. *Rules 17.2 and 76.4.* The Assembly noted that, while the deletion from Rules 17.2(a) and 76.4 of references to certified translations of priority documents would have the effect that designated and elected Offices could no longer require the furnishing of *certified* translations of priority documents, those Offices could continue to require the furnishing of *verified* translations of priority documents (see Rule 51*bis*.1(d) as to the meaning of “verified”).

Deposits of biological materials

31. *Rules 13bis and 48.2.* In adopting the proposed amendments of Rules 13*bis* and 48.2(a)(viii), the Assembly noted the statement made by the Delegation of Sweden in connection with the replacement of the word “microorganism” by the words “biological material” in those Rules. The Delegation indicated that, even though it was, in principle, in favor of the amendment, it could not take a position on it since the amendments to those Rules would necessitate an amendment of the Swedish national law. The Swedish Government had stated that any related amendments of the Swedish law would be deferred until a European Union Council Directive on Legal Protection of Biotechnological Inventions had been approved.

Fees

32. *Rule 58bis.2.* The Assembly noted the possible need for a review, at some later date, of the amount of the late payment fee fixed in Rule 58*bis*.2, if experience showed that payment of the preliminary examination and handling fees was being deferred in a significant number of cases.

Nucleotide and amino acid sequence listings

33. *Rule 5.2.* In adopting Rule 5.2(a), the Assembly noted that the envisaged common standard for the presentation of sequence listings in international applications would specifically exclude from its scope certain sequences, so that Rule 5.2(a) would not apply to them (for example, branched sequences or sequences with fewer than four specifically defined nucleotides or amino acids, among others).

PCT Gazette

34. *Rule 86.* In introducing its proposal (see document PCT/A/XXIV/7, paragraphs 12 to 19 and Annex II), the International Bureau drew attention to the decreasing number of subscriptions to the PCT Gazette (subscriptions had decreased by approximately 30% over the last 15 years), which was in contrast to the rapid growth in the number of international

applications filed (an approximately 10-fold increase over the same period). The main reason seemed to be that information about international applications was increasingly available from other sources and in formats other than the Gazette in paper form currently published by the International Bureau. The proposal of the International Bureau was aimed at improving the availability of information about international applications, in particular in easily searchable electronic formats, such as CD-ROMs and on-line, while at the same time reducing the resources required for producing the printed paper version of the Gazette by merging publication of the bibliographic data, currently published in separate English and French versions of the Gazette, into a single bilingual Gazette without abstracts and drawings. Abstracts and drawings would, together with the bibliographic data, be published in future in electronic form in parallel with the paper form.

35. In introducing its proposal (see document PCT/A/XXIV/9), the Delegation of France indicated that information about international applications had to be available to everyone in both languages and in easily searchable form. Those requirements would be fulfilled by its proposal, which provided for two forms of the Gazette, one in paper form and the other in electronic form. Easy, low cost access to bibliographic information relating to published international applications would be provided through the paper version of the Gazette, while access to bibliographic information, abstracts and drawings in a modern, easily searchable format would be possible through the electronic version of the Gazette. The proposal would, moreover, ensure the equal treatment of languages.

36. The Assembly noted that reference in Rule 86.2(c) to the Gazette being “made accessible, in English and French at the same time,” did not mean that publication of the information concerned had to occur on the same carrier in both languages.

37. The Assembly, in deciding that the amendments of Rule 86 would enter into force on January 1, 1998 (see paragraph 16(ii), above), did so on the understanding that, for practical reasons, it may not be possible for the new formats of the Gazette to be implemented from that date, in which case the International Bureau would continue to publish the Gazette in the present format for a short period after January 1, 1998, and the new formats would be introduced as soon as possible after that date.

International preliminary examination

38. *Rule 53.7.* The Delegation of the United States of America expressed its concern that the International Bureau’s proposal for amendment of Rule 53.7 (see document PCT/A/XXIV/7, paragraph 23 and Annex III, pages 1 and 2), by which any demand for international preliminary examination would be considered as containing the election of all eligible States, would conflict with Article 31(4)(a). The Delegation suggested an alternative proposal (see document PCT/A/XXIV/8, page 11) whereby the International Preliminary Examining Authority would have discretion to decide in particular cases whether a demand could reasonably be construed as containing the election of all eligible States.

39. The International Bureau explained its view that, while Article 31(4)(a) required that the election of States be indicated in the demand, it did not specify how this had to be done, and that the Regulations could make suitable implementing provisions such as those proposed by the International Bureau, which would be particularly appropriate since most applicants, in practice, elect all eligible States. However, noting that its proposal did not find unanimous

acceptance, the International Bureau withdrew it together with certain proposed consequential amendments of Rules 56.1(a), 60.1(a) and (b) and 60.2(b).

40. *Rule 59.3.* In connection with the adoption of Rule 59.3, the Delegation of the United States of America expressed its concern that the Rule, which provided for a demand for international preliminary examination to be accorded, as the date of filing, the date of its receipt by the “non-competent” Office or authority rather than the date of its actual receipt by the competent International Preliminary Examining Authority, may be inconsistent with Article 31(6)(a). The Assembly noted that, while Article 31(6)(a) required that the demand “shall be submitted to the competent International Preliminary Examining Authority,” it did not specify by what route, and that Rule 59.3 followed, so far as the demand was concerned, a similar approach to that taken by present Rule 19.4 in relation to the international application itself and present Rule 56.1(f) in relation to a notice effecting a later election.

41. *Rule 69.2.* The Assembly noted that the calculation of time under Rule 69.2(ii) would commence only from the date on which *both* the demand had been received by the (competent) International Preliminary Examining Authority *and* the handling and preliminary examination fees had been paid.

42. *Rule 94.* The Assembly noted that access by third parties to the file of the international preliminary examination could, under Rule 94, be obtained only via the elected Offices for the application concerned. The question whether particular documents held in the file of a given elected Office would be treated as confidential would depend on the applicable national law and practice. As to the application of the amendments of Rule 94, see paragraph 16(iv), above.

ADOPTION OF NEW AMOUNTS OF CERTAIN PCT FEES

43. Discussions were based on document PCT/A/XXIV/5.

44. The Assembly fixed new, lower, amounts of the basic and designation fees, applicable from January 1, 1998, as appearing in the Schedule of Fees to the Regulations contained in Annex III to this report, and decided that the new amounts would apply only to international applications filed on or after January 1, 1998.

[Annexes follow]

ANNEX I

AGENDA

adopted by the Assembly

1. Opening of the session
2. Election of a Chairman and two Vice-Chairmen
3. Adoption of the agenda
4. International Searching Authorities and International Preliminary Examining Authorities: extension of appointments; renewal of the Agreements with the International Bureau (documents PCT/A/XXIV/3 and 3 Corr. (in French only))
5. Appointment of the Korean Industrial Property Office as an International Searching Authority and International Preliminary Examining Authority (documents PCT/A/XXIV/4 and 4 Corr. (in French only))
6. Amendment of the PCT Regulations (documents PCT/A/XXIV/2, 6, 7, 8 and 9)
7. Amendment of certain PCT fees (document PCT/A/XXIV/5)
8. Adoption of the report of the session
9. Closing of the session

[Annex II follows]

ANNEX II

STATEMENT BY THE DELEGATION OF THE REPUBLIC OF KOREA

Mr. Chairman, distinguished delegates, ladies and gentlemen:

First of all, on behalf of the Korean Industrial Property Office (KIPO) and the Delegation of the Republic of Korea, we would like to express our sincere gratitude to Dr. Arpad Bogesch, Director General of the World Intellectual Property Organization (WIPO), and his colleagues for their kindness in putting forward KIPO's request for appointment as an International Searching Authority (ISA) and an International Preliminary Examining Authority (IPEA) under the Patent Cooperation Treaty (PCT) at this PCT Assembly. We would also like to take this opportunity to extend our appreciation to the member States of the PCT Committee for Technical Cooperation including Japan, the Netherlands, Canada, Sweden and Ireland, for their support shown to us at its nineteenth session held in Geneva from May 26 to 30, 1997. And the same thanks go to all other countries and organizations for their support and assistance extended to KIPO with reference to its appointment as a PCT/ISA and an IPEA.

We believe the recent rapid increase in both the number of PCT member States and the number of international applications via PCT procedures in member States including the Republic of Korea is the very proof that the PCT has been recognized worldwide as an easier and more convenient channel for filing patent applications abroad.

Along with a substantial increase in industrial property right applications during the past decade, the awareness of the importance of industrial property rights (IPRs) has been growing remarkably in the Republic of Korea. For instance, the number of patent applications including utility models has increased more than four times from 35,160 in 1986 to 157,480 in 1996. And even the total IPR applications has trebled from 81,922 in 1986 to 274,069 in 1996, thus placing the Republic of Korea fourth in the world in terms of IPR applications. Moreover, international applications under the PCT also have been increasing, following the same trend as national patent applications.

To cope with such a promising trend, upgrading the quality of patent search and examination has become one of the principal priorities for the Korean IPR policies. And KIPO is presently facing an increasing challenge from private companies for KIPO to take measures for a more user-friendly environment for filing PCT applications utilizing PCT procedures. We believe it is high time for KIPO to further strengthen its international role and responsibility corresponding to its status in the field of industrial property rights to bridge the advanced and the developing countries. In this respect, KIPO's becoming a PCT/ISA as well as a PCT/IPEA would be timely and could serve to meet the above demands.

Availing ourselves of this opportunity, we would like to make a brief presentation on KIPO's capability for undertaking the prospective task as a PCT/ISA and as an IPEA, focusing on the minimum requirements prescribed in Article 16(3)(c) of the PCT.

First, with regard to the requirement for patent examination personnel, KIPO has continuously and substantially increased the number of patent examiners in order to effectively cope with the remarkable increase in patent applications, despite the trend of strict control over the increase in the number of staff of the public sector under the "small

government” policy. KIPO has presently about 400 full-time patent examiners with sufficient academic and professional qualifications to carry out international-type searches and examinations.

Almost all examiners have a good command of at least one foreign language. In particular, 120 examiners holding a doctorate degree were recently recruited to undertake examinations with respect to the newly emerging areas of technology including biotechnology and computer-related technology.

Moreover, in order to cope effectively with the ever increasing number of IPR applications, consultations were held with the authorities concerned in the Government of the Republic of Korea with a view to a further increase of more than 200 persons next year, and we are planning to increase the total number of patent examiners to over 800 by the year 2000.

In addition to the increase in the number of patent examiners, KIPO has also made every effort to further enhance the quality of examination through a series of intensive training programs. Before becoming a patent examiner, the prospective examiner must complete a series of intensive training courses to acquire all the necessary professional knowledge and skills including IPR-related laws, patent classification, and the guidelines for patent search and examination. Even after becoming an examiner, he or she is required to take supplementary training courses in the third and the fifth years in order to keep informed of new information and knowledge in the related field of intellectual property as well as the technology concerned.

KIPO has also established and implemented the so-called “Examiner Evaluation System” to ensure high quality of examination by providing incentives to the prominent examiners who obtain high points in the evaluation.

While strengthening the examination staff, KIPO has also made every effort to accelerate and upgrade computerization of patent search and examination with the aim of reducing pendency time and improving efficiency substantially in IPR processing.

Since the launch of the first comprehensive computerization plan in 1989 with the assistance of WIPO, KIPO’s computerization project has successfully progressed. In spite of many difficulties arising from the lack of experienced experts and sufficient funding as well as necessary facilities, concerted efforts have been made to implement the computerization as planned. As a result, a number of computerized subsystems were developed and successfully employed in the area of administrative processing, and patent search and examination.

KIPO will continue to make efforts to further improve computerization, including the continuous upgrading of computer-aided search and examination, so as to ensure efficiency and quality in patent search and examination.

And, now pertaining to the requirement for the minimum documentation, KIPO has continued a series of restructuring and has strengthened the function of documentation and information. For instance, the Documentation Division has been operating since 1977 collecting patent documents and non-patent literature, classifying them for easier access by patent examiners and providing an information service to the public. In 1991, KIPO created the Information and Documentation Bureau with the aim of further facilitating the task of

systematic collecting, processing and utilizing patent information and documentation, under the envisaged computerization of patent administration.

As a result of systematic and continuous efforts, KIPO has now collected a wide range of information resources from 35 countries and three international organizations. As of September 1997, KIPO is in possession of more than 48 million patent documents in the form of paper, microfilm or other electronic format like CD-ROM.

The collected paper patent documents have been processed and classified complying with the International Patent Classification (IPC) from the early 1980's, replacing the previous Korean Patent Classification into the examiner search files.

The documents in the search files contain the full text of patent specifications of more than 36 million cases of 16 countries including Australia, France, Germany, Japan, Russia, Switzerland, the United Kingdom and the United States of America as well as of four organizations, namely, ARIPO, the EPO, OAPI and WIPO, together with the patent abstracts of 18 countries.

In addition to the paper documents, KIPO has extensive collections of electronic documents, loaded on microfilms as well as on CD-ROMs. KIPO possesses microfilm documents for more than six million cases of nine countries like Australia, France, Germany, Japan, Switzerland, the United Kingdom and the United States of America, as well as of two organizations, that is, the EPO and WIPO. There are also over five million cases on CD-ROMs of 12 leading countries and three organizations, like the EPO and WIPO.

Furthermore, KIPO operates 56 CD-ROM workstations, together with about 400 personal computers equipped with a CD-ROM drive. KIPO also plans to provide a PC equipped with a CD-ROM drive to each examiner by the end of this year, so that the examiners can conduct searches or other work related to examination utilizing CD-ROMs or other electronic formats.

KIPO has also established a database system for the World Patent Index (WPI) and the First Page Data Base (FPDB), and a retrieval system for the patent examiners to utilize the data published by Derwent Information Ltd. and the EPO. The WPI database contains more than six million cases of 35 countries and two organizations going back to 1963, the contents of which are bibliographic data, drawings and abstracts in English, while FPDB encompasses patent documents of the EPO, Japan and the United States of America.

As for non-patent literature, KIPO has so far collected 68 periodicals among the list of 135 established under PCT Rule 34.1(b)(iii). Accordingly, to supplement the gap, KIPO has made arrangements for the patent examiners to have access to the non-patent literature via the retrieval system provided by the Korean Institute of Industry and Technology Information (KINITI). However, as KIPO is scheduled to move in 1998 to Taejon, which is located about 150 kilometers away to the south of Seoul, KIPO is planning to subscribe to 68 additional periodicals next year which are not currently available in order to meet the requirement for the non-patent literature.

We are pleased to inform you that KIPO's plan for obtaining the missing documents listed in Appendix I of document PCT/A/XXIV/4, has been progressing as scheduled, thanks to the kind cooperation of the foreign patent Offices concerned.

With respect to item 1, documents issued by Australia, we will purchase them from the Australian Industrial Property Organisation (AIPO).

And as regards item 2 through item 6, documents issued by Austria, France, Germany, the United Kingdom and the United States of America, the European Patent Office has agreed to provide us with those documents at a reasonable price, which are loaded on the Bacon Numerical System (BNS). We have already contacted the Offices concerned for their formal approval of the delivery of their documents on BNS via the EPO.

Once again, we would like to express our sincere appreciation to the Australian Industrial Property Organisation and the European Patent Office as well as the patent Offices of Austria, France, Germany, the United Kingdom and the United States of America for their kind cooperation extended to us for obtaining the supplementary documents.

While hoping these Offices will continue to grant assistance by donating or selling to KIPO the missing parts of the minimum documentation they published, we anticipate that we will be able to complete the collection of those documents by the first half of next year.

In conclusion, we would like to assure all of you that KIPO has already established a sufficient qualified examining force and extensive documentation system for meeting almost all of the minimum requirements to be a qualified PCT/ISA and IPEA. The remainder of the documents for the minimum documentation will be secured in the shortest period of time. Encouraged by the recommendation of PCT/CTC for KIPO to be a prospective PCT/ISA and IPEA, as well as the successful progress in our preparations thus far, we sincerely request your full support for KIPO's appointment as a PCT/ISA and an IPEA.

Once again, we would like to express our appreciation to Dr. Bogsch, Director General of WIPO, and the members of the International Bureau for their excellent arrangements and cooperation for this meeting.

[Annex III follows]

ANNEX III

AMENDMENTS OF THE REGULATIONS UNDER THE PCT:
TEXT OF THE AMENDED RULES¹

Rule 3
The Request (Form)

3.1 and 3.2 [No change]

3.3 *Check List*

(a) The request shall contain a list indicating:

(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 (separately indicating the number of sheets of any sequence listing part of the description), claims, drawings, abstract;

(ii) where applicable, that the international application as filed is accompanied by a power of attorney (i.e., a document appointing an agent or a common representative), a copy of a general power of attorney, a priority document, a sequence listing in computer readable form, a document relating to the payment of fees, or any other document (to be specified in the check list);

(iii) [No change]

(b) [No change]

3.4 [No change]

Rule 4
The Request (Contents)

4.1 to 4.9 [No change]

4.10 *Priority Claim*

(a) Any declaration referred to in Article 8(1) ("priority claim") shall, subject to Rule 26bis.1, 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) the date on which the earlier application was filed, being a date falling within the period of 12 months preceding the international filing date;

1. The amendments will enter into force on July 1, 1998, except where otherwise indicated.

(ii) the number of the earlier application;

(iii) where the earlier application is a national application, the country party to the Paris Convention for the Protection of Industrial Property in which it was filed;

(iv) where the earlier application is a regional application, the authority entrusted with the granting of regional patents under the applicable regional patent treaty;

(v) where the earlier application is an international application, the receiving Office with which it was filed.

(b) In addition to any indication required under paragraph (a)(iv) or (v):

(i) where the earlier application is a regional application or an international application, the priority claim may indicate one or more countries party to the Paris Convention for the Protection of Industrial Property for which that earlier application was filed;

(ii) where the earlier application is a regional application and the countries party to the regional patent treaty are not all party to the Paris Convention for the Protection of Industrial Property, the priority claim shall indicate at least one country party to that Convention for which that earlier application was filed.

(c) For the purposes of paragraphs (a) and (b), Article 2(vi) shall not apply.

(d) [Deleted]

(e) [Deleted]

4.11 to 4.17 [No change]

Rule 5

The Description

5.1 [No change]

5.2 Nucleotide and/or Amino Acid Sequence Disclosure

(a) Where the international application contains disclosure of one or more nucleotide and/or amino acid sequences, the description shall contain a sequence listing complying with the standard provided for in the Administrative Instructions and presented as a separate part of the description in accordance with that standard.

(b) Where the sequence listing part of the description contains any free text as defined in the standard provided for in the Administrative Instructions, that free text shall also appear in the main part of the description in the language thereof.

Rule 11
Physical Requirements of the International Application

11.1 to 11.13 [No change]

11.14 *Later Documents*

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

Rule 12
**Language of the International Application
and Translation for the Purposes of International Search**

12.1 *Languages Accepted for the Filing of International Applications*

(a) An international application shall be filed in any language which the receiving Office accepts for that purpose.

(b) Each receiving Office shall, for the filing of international applications, accept at least one language which is both:

(i) a language accepted by the International Searching Authority, or, if applicable, by at least one of the International Searching Authorities, competent for the international searching of international applications filed with that receiving Office, and

(ii) a language of publication.

(iii) [Deleted]

(c) Notwithstanding paragraph (a), the request shall be filed in a language which is both a language accepted by the receiving Office under that paragraph and a language of publication.

(d) Notwithstanding paragraph (a), any text matter contained in the sequence listing part of the description referred to in Rule 5.2(a) shall be presented in accordance with the standard provided for in the Administrative Instructions.

12.2 *Language of Changes in the International Application*

(a) Any amendment of the international application shall, subject to Rules 46.3, 55.3 and 66.9, be in the language in which the application is filed.

(b) Any rectification under Rule 91.1 of an obvious error in the international application shall be in the language in which the application is filed, provided that:

(i) where a translation of the international application is required under Rule 12.3(a), 48.3(b) or 55.2(a), rectifications referred to in Rule 91.1(e)(ii) and (iii) shall be filed in both the language of the application and the language of that translation;

(ii) where a translation of the request is required under Rule 26.3ter(c), rectifications referred to in Rule 91.1(e)(i) need only be filed in the language of that translation.

(c) Any correction under Rule 26 of a defect in the international application shall be in the language in which the international application is filed. Any correction under Rule 26 of a defect in a translation of the international application furnished under Rule 12.3 or 55.2(a), or in a translation of the request furnished under Rule 26.3ter(c), shall be in the language of the translation.

12.3 Translation for the Purposes of International Search

(a) Where the language in which the international application is filed is not accepted by the International Searching Authority that is to carry out the international search, the applicant shall, within one month from the date of receipt of the international application by the receiving Office, furnish to that Office a translation of the international application into a language which is all of the following:

(i) a language accepted by that Authority, and

(ii) a language of publication, and

(iii) a language accepted by the receiving Office under Rule 12.1(a), unless the international application is filed in a language of publication.

(b) Paragraph (a) shall not apply to the request nor to any sequence listing part of the description.

(c) Where, by the time the receiving Office sends to the applicant the notification under Rule 20.5(c), the applicant has not furnished a translation required under paragraph (a), the receiving Office shall, preferably together with that notification, invite the applicant:

(i) to furnish the required translation within the time limit under paragraph (a);

(ii) in the event that the required translation is not furnished within the time limit under paragraph (a), to furnish it and to pay, where applicable, the late furnishing fee referred to in paragraph (e), within one month from the date of the invitation or two months from the date of receipt of the international application by the receiving Office, whichever expires later.

(d) Where the receiving Office has sent to the applicant an invitation under paragraph (c) and the applicant has not, within the applicable time limit under paragraph (c)(ii), furnished the required translation and paid any required late furnishing fee, the international application shall be considered withdrawn and the receiving Office shall so declare. Any translation and any payment received by the receiving Office before that Office makes the declaration under the previous sentence and before the expiration of 15 months

from the priority date shall be considered to have been received before the expiration of that time limit.

(e) The furnishing of a translation after the expiration of the time limit under paragraph (a) may be subjected by the receiving Office to the payment to it, for its own benefit, of a late furnishing fee equal to 50% of the basic fee.

Rule 13bis
Inventions Relating to Biological Material

13bis.1 Definition

For the purposes of this Rule, “reference to deposited biological material” means particulars given in an international application with respect to the deposit of biological material with a depositary institution or to the biological material so deposited.

13bis.2 References (General)

Any reference to deposited biological material shall be made in accordance with this Rule and, if so made, shall be considered as satisfying the requirements of the national law of each designated State.

13bis.3 References: Contents; Failure to Include Reference or Indication

(a) A reference to deposited biological material shall indicate:

- (i) [No change]
- (ii) the date of deposit of the biological material with that institution;
- (iii) and (iv) [No change]

(b) Failure to include a reference to deposited biological material or failure to include, in a reference to deposited biological material, an indication in accordance with paragraph (a), shall have no consequence in any designated State whose national law does not require such reference or such indication in a national application.

13bis.4 References: Time Limit for Furnishing Indications

(a) Subject to paragraphs (b) and (c), if any of the indications referred to in Rule 13bis.3(a) is not included in a reference to deposited biological material in the international application as filed but is furnished to the International Bureau:

- (i) within 16 months from the priority date, the indication shall be considered by any designated Office to have been furnished in time;
- (ii) after the expiration of 16 months from the priority date, the indication shall be considered by any designated Office to have been furnished on the last day of that time limit

if it reaches the International Bureau before the technical preparations for international publication have been completed.

(b) If the national law applicable by a designated Office so requires in respect of national applications, that Office may require that any of the indications referred to in Rule 13bis.3(a) be furnished earlier than 16 months from the priority date, provided that the International Bureau has been notified of such requirement pursuant to Rule 13bis.7(a)(ii) and has published such requirement in the Gazette in accordance with Rule 13bis.7(c) at least two months before the filing of the international application.

(c) Where the applicant makes a request for early publication under Article 21(2)(b), any designated Office may consider any indication not furnished before the technical preparations for international publication have been completed as not having been furnished in time.

(d) The International Bureau shall notify the applicant of the date on which it received any indication furnished under paragraph (a), and

(i) if the indication was received before the technical preparations for international publication have been completed, indicate that date, and include the relevant data from the indication, in the pamphlet published under Rule 48;

(ii) if the indication was received after the technical preparations for international publication have been completed, notify that date and the relevant data from the indication to the designated Offices.

13bis.5 References and Indications for the Purposes of One or More Designated States; Different Deposits for Different Designated States; Deposits with Depositary Institutions Other than Those Notified

(a) A reference to deposited biological material shall be considered to be made for the purposes of all designated States, unless it is expressly made for the purposes of certain of the designated States only; the same applies to the indications included in the reference.

(b) References to different deposits of the biological material may be made for different designated States.

(c) Any designated Office may disregard a deposit made with a depositary institution other than one notified by it under Rule 13bis.7(b).

13bis.6 Furnishing of Samples

(a) [Deleted]

Pursuant to Articles 23 and 40, no furnishing of samples of the deposited biological material to which a reference is made in an international application shall, except with the authorization of the applicant, take place before the expiration of the applicable time limits after which national processing may start under the said Articles. However, where the applicant performs the acts referred to in Articles 22 or 39 after international publication but before the expiration of the said time limits, the furnishing of samples of the deposited

biological material may take place, once the said acts have been performed. Notwithstanding the previous provision, the furnishing of samples of the deposited biological material may take place under the national law applicable by any designated Office as soon as, under that law, the international publication has the effects of the compulsory national publication of an unexamined national application.

13bis.7 National Requirements: Notification and Publication

(a) Any national Office may notify the International Bureau of any requirement of the national law:

(i) that any matter specified in the notification, in addition to those referred to in Rule 13bis.3(a)(i), (ii) and (iii), is required to be included in a reference to deposited biological material in a national application;

(ii) that one or more of the indications referred to in Rule 13bis.3(a) are required to be included in a national application as filed or are required to be furnished at a time specified in the notification which is earlier than 16 months from the priority date.

(b) Each national Office shall notify the International Bureau of the depositary institutions with which the national law permits deposits of biological materials to be made for the purposes of patent procedure before that Office or, if the national law does not provide for or permit such deposits, of that fact.

(c) [No change]

Rule 13ter
Nucleotide and/or Amino Acid Sequence Listings

13ter.1 Sequence Listing for International Authorities

(a) Where the International Searching Authority finds that the international application contains disclosure of one or more nucleotide and/or amino acid sequences but:

(i) the international application does not contain a sequence listing complying with the standard provided for in the Administrative Instructions, that Authority may invite the applicant to furnish to it, within a time limit fixed in the invitation, a sequence listing complying with that standard;

(ii) the applicant has not already furnished a sequence listing in computer readable form complying with the standard provided for in the Administrative Instructions, that Authority may invite the applicant to furnish to it, within a time limit fixed in the invitation, a sequence listing in such a form complying with that standard.

(b) [Deleted]

(c) If the applicant does not comply with an invitation under paragraph (a) within the time limit fixed in the invitation, the International Searching Authority shall not be required

to search the international application to the extent that such non-compliance has the result that a meaningful search cannot be carried out.

(d) Where the International Searching Authority finds that the description does not comply with Rule 5.2(b), it shall invite the applicant to file the required correction. Rule 26.4 shall apply *mutatis mutandis* to any correction offered by the applicant. The International Searching Authority shall transmit the correction to the receiving Office and to the International Bureau.

(e) Paragraphs (a) and (c) shall apply *mutatis mutandis* to the procedure before the International Preliminary Examining Authority.

(f) Any sequence listing not contained in the international application as filed shall not, subject to Article 34, form part of the international application.

13ter.2 Sequence Listing for Designated Office

Once the processing of the international application has started before a designated Office, Rule 13ter.1(a) shall apply *mutatis mutandis* to the procedure before that Office. No designated Office shall require the applicant to furnish to it a sequence listing other than a sequence listing complying with the standard provided for in the Administrative Instructions.

(b) [Deleted]

Rule 14 The Transmittal Fee

14.1 The Transmittal Fee

(a) [No change]

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

(c) The transmittal fee shall be paid within one month from the date of receipt of the international application. The amount payable shall be the amount applicable on that date of receipt.

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”) to be collected by the receiving Office and consisting of,

(i) [No change]

(ii) as many “designation fees” as there are national patents and regional patents sought under Rule 4.9(a), except that, where Article 44 applies in respect of a designation, only one designation fee shall be due for that designation, and that the Schedule of Fees may indicate a maximum number of designation fees payable.

15.2 *Amounts*

(a) [No change]

(b) The basic fee and the designation fee shall be payable in the currency or one of the currencies prescribed by the receiving Office (“prescribed currency”), it being understood that, when transferred by the receiving Office to the International Bureau, they shall be freely convertible into Swiss currency. The amounts of the basic fee and of the designation fee shall be established, for each receiving Office which prescribes the payment of those fees in any currency other than Swiss currency, by the Director General after consultation with the receiving Office of, or acting under Rule 19.1(b) for, the State whose official currency is the same as the prescribed currency. The amounts so established shall be the equivalents, in round figures, of the amounts in Swiss currency set out in the Schedule of Fees. They shall be notified by the International Bureau to each receiving Office prescribing payment in that prescribed currency and shall be published in the Gazette.

(c) [No change]

(d) Where the exchange rate between Swiss currency and any prescribed currency becomes different from the exchange rate last applied, the Director General shall establish new amounts in the prescribed currency according to directives given by the Assembly. The newly established amounts shall become applicable two months after the date of their publication in the Gazette, provided that the receiving Office referred to in the second sentence of paragraph (b) and the Director General may agree on a date falling during the said two-month period, in which case the said amounts shall become applicable from that date.

15.3 [Deleted]

15.4 *Time Limit for Payment; Amount Payable*

(a) The basic fee shall be paid within one month from the date of receipt of the international application. The amount payable shall be the amount applicable on that date of receipt.

(b) The designation fee shall be paid within a time limit of:

(i) one year from the priority date, or

(ii) one month from the date of receipt of the international application if that one-month period expires later than one year from the priority date.

(c) Where the designation fee is paid before the expiration of one month from the date of receipt of the international application, the amount payable shall be the amount applicable on that date of receipt. Where the time limit under paragraph (b)(i) applies and the designation fee is paid before the expiration of that time limit but later than one month from

the date of receipt of the international application, the amount payable shall be the amount applicable on the date of payment.

(i) and (ii) [Deleted]

15.5 *Fees Under Rule 4.9(c)*

(a) Notwithstanding Rule 15.4(b), the confirmation under Rule 4.9(c) of any designations made under Rule 4.9(b) shall be subject to the payment to the receiving Office of as many designation fees (for the benefit of the International Bureau) as there are national patents and regional patents sought by the applicant by virtue of the confirmation, together with a confirmation fee (for the benefit of the receiving Office) equal to 50% of the sum of the designation fees payable under this paragraph. Such fees shall be payable in respect of each designation so confirmed, even if the maximum number of designation fees referred to in item 2(a) of the Schedule of Fees is already payable or if a designation fee is already payable in respect of the designation under Rule 4.9(a) of the same State for a different purpose.

(b) [No change]

15.6 *Refund*

The receiving Office shall refund the international fee to the applicant:

- (i) if the determination under Article 11(1) is negative,
- (ii) if, before the transmittal of the record copy to the International Bureau, the international application is withdrawn or considered withdrawn, or
- (iii) if, due to prescriptions concerning national security, the international application is not treated as such.

Rule 16 **The Search Fee**

16.1 *Right to Ask for a Fee*

(a) [No change]

(b) The search fee shall be collected by the receiving Office. The said fee shall be payable in the currency or one of the currencies prescribed by that Office (“receiving Office currency”), it being understood that, if any receiving Office currency is not that, or one of those, in which the International Searching Authority has fixed the said fee (“fixed currency”), it shall, when transferred by the receiving Office to the International Searching Authority, be freely convertible into the currency of the State in which the International Searching Authority has its headquarters (“headquarters currency”). The amount of the search fee in any receiving Office currency, other than the fixed currency, shall be established by the Director General after consultation with the receiving Office of, or acting under Rule 19.1(b) for, the State whose official currency is the same as the receiving Office currency. The amounts so established shall be the equivalents, in round figures, of the

amount established by the International Searching Authority in the headquarters currency. They shall be notified by the International Bureau to each receiving Office prescribing payment in that receiving Office currency and shall be published in the Gazette.

(c) [No change]

(d) Where the exchange rate between the headquarters currency and any receiving Office currency, other than the fixed currency or currencies, becomes different from the exchange rate last applied, the Director General shall establish the new amount in the said receiving Office currency according to directives given by the Assembly. The newly established amount shall become applicable two months after its publication in the Gazette, provided that any receiving Office referred to in the third sentence of paragraph (b) and the Director General may agree on a date falling during the said two-month period, in which case the said amount shall become applicable for that Office from that date.

(e) [No change]

(f) As to the time limit for payment of the search fee and the amount payable, the provisions of Rule 15.4(a) relating to the basic fee shall apply *mutatis mutandis*.

16.2 *Refund*

The receiving Office shall refund the search fee to the applicant:

- (i) if the determination under Article 11(1) is negative,
- (ii) if, before the transmittal of the search copy to the International Searching Authority, the international application is withdrawn or considered withdrawn, or
- (iii) if, due to prescriptions concerning national security, the international application is not treated as such.

16.3 [No change]

Rule 16bis **Extension of Time Limits for Payment of Fees**

16bis.1 Invitation by the Receiving Office

(a) Where, by the time they are due under Rules 14.1(c), 15.4(a) and 16.1(f), the receiving Office finds that no fees were paid to it, or that the amount paid to it is insufficient to cover the transmittal fee, the basic fee and the search fee, the receiving Office shall invite the applicant to pay to it the amount required to cover those fees, together with, where applicable, the late payment fee under Rule 16bis.2, within a time limit of one month from the date of the invitation.

(b) Where, by the time they are due under Rule 15.4(b), the receiving Office finds that no fees were paid to it, or that the amount paid to it is insufficient to cover the designation fees necessary to cover all the designations under Rule 4.9(a), the receiving Office shall invite

the applicant to pay to it the amount required to cover those fees, together with, where applicable, the late payment fee under Rule 16*bis*.2, within a time limit of one month from the date of the invitation. The amount payable in respect of any designation fee shall be the amount applicable on the last day of the one-year period from the priority date if the time limit under Rule 15.4(b)(i) applies or the amount applicable on the date of receipt of the international application if the time limit under Rule 15.4(b)(ii) applies.

(c) Where the receiving Office has sent to the applicant an invitation under paragraph (a) or (b) and the applicant has not, within the time limit referred to in that paragraph, paid in full the amount due, including, where applicable, the late payment fee under Rule 16*bis*.2, the receiving Office shall, subject to paragraph (d):

(i) to (iii) [No change]

(d) Any payment received by the receiving Office before that Office sends the invitation under paragraph (a) or (b) shall be considered to have been received before the expiration of the time limit under Rule 14.1(c), 15.4(a) or (b) or 16.1(f), as the case may be.

(e) Any payment received by the receiving Office before that Office makes the applicable declaration under Article 14(3) shall be considered to have been received before the expiration of the time limit referred to in paragraph (a) or (b).

16bis.2 Late Payment Fee

(a) The payment of fees in response to an invitation under Rule 16*bis*.1(a) or (b) may be subjected by the receiving Office to the payment to it, for its own benefit, of a late payment fee. The amount of that fee shall be:

(i) and (ii) [No change]

(b) The amount of the late payment fee shall not, however, exceed the amount of the basic fee referred to in item 1(a) of the Schedule of Fees.

Rule 17 **The Priority Document**

17.1 Obligation to Submit Copy of Earlier National or International Application

(a) Where the priority of an earlier national or international application is claimed under Article 8, a copy of that earlier 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 in which the priority claim is made, and subject to paragraph (b), be submitted by the applicant to the International Bureau or to the receiving Office not later than 16 months after the priority date, provided that any copy of the said earlier application which is received by the International Bureau after the expiration of that time limit shall be considered to have been received by that Bureau on the last day of that time limit if it reaches it before the date of international publication of the international application.

(b) Where the priority document is issued by the receiving Office, the applicant may, instead of submitting the priority document, request the receiving Office to prepare and transmit the priority document to the International Bureau. Such request shall be made not later than 16 months after the priority date and may be subjected by the receiving Office to the payment of a fee.

(c) If the requirements of neither of the two preceding paragraphs are complied with, any designated State may disregard the priority claim, provided that no designated Office shall disregard the priority claim before giving the applicant an opportunity to furnish the priority document within a time limit which shall be reasonable under the circumstances.

17.2 *Availability of Copies*

(a) Where the applicant has complied with Rule 17.1(a) or (b), the International Bureau shall, at the specific request of the designated Office, promptly but not prior to the international publication of the international application, furnish a copy of the priority document to that Office. No such Office shall ask the applicant himself to furnish it with a copy. The applicant shall not be required to furnish a translation to the designated Office before the expiration of the applicable time limit under Article 22. Where the applicant makes an express request to the designated Office under Article 23(2) prior to the international publication of the international application, the International Bureau shall, at the specific request of the designated Office, furnish a copy of the priority document to that Office promptly after receiving it.

(b) [No change]

(c) Where the international application has been published under Article 21, the International Bureau shall furnish a copy of the priority document to any person upon request and subject to reimbursement of the cost unless, prior to that publication:

(i) [No change]

(ii) the relevant priority claim was withdrawn or considered, under Rule 26*bis*.2(b), not to have been made.

(iii) [Deleted]

(d) [Deleted]

Rule 19 **The Competent Receiving Office**

19.1 to 19.3 [No change]

19.4 *Transmittal to the International Bureau as Receiving Office*

(a) Where an international application is filed with a national Office which acts as a receiving Office under the Treaty but

- (i) that national Office is not competent under Rule 19.1 or 19.2 to receive that international application, or
- (ii) that international application is not in a language accepted under Rule 12.1(a) by that national Office but is in a language accepted under that Rule by the International Bureau as receiving Office, or
- (iii) that national Office and the International Bureau agree, for any reason other than those specified under items (i) and (ii), and with the authorization of the applicant, that the procedure under this Rule should apply,

that international application shall, subject to paragraph (b), be considered to have been received by that Office on behalf of the International Bureau as receiving Office under Rule 19.1(a)(iii).

(b) [No change]

(c) For the purposes of Rules 14.1(c), 15.4(a) to (c) and 16.1(f), where the international application was transmitted to the International Bureau under paragraph (b), the date of receipt of the international application shall be considered to be the date on which the international application was actually received by the International Bureau. For the purposes of this paragraph, the last sentence of paragraph (b) shall not apply.

Rule 20

Receipt of the International Application

20.1 to 20.3 [No change]

20.4 *Determination Under Article 11(1)*

(a) and (b) [No change]

(c) For the purposes of Article 11(1)(ii), it shall be sufficient that the part which appears to be a description (other than any sequence listing part thereof) and the part which appears to be a claim or claims be in a language accepted by the receiving Office under Rule 12.1(a).

(d) If, on October 1, 1997, paragraph (c) is not compatible with the national law applied by the receiving Office, paragraph (c) shall not apply to that receiving Office for as long as it continues not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by December 31, 1997. The information received shall be promptly published by the International Bureau in the Gazette.

20.5 to 20.9 [No change]

Rule 22
Transmittal of the Record Copy and Translation

22.1 *Procedure*

(a) to (g) [No change]

(h) Where the international application is to be published in the language of a translation furnished under Rule 12.3, that translation shall be transmitted by the receiving Office to the International Bureau together with the record copy under paragraph (a) or, if the receiving Office has already transmitted the record copy to the International Bureau under that paragraph, promptly after receipt of the translation.

22.2 [Remains deleted]

22.3 [No change]

Rule 23
Transmittal of the Search Copy, Translation and Sequence Listing

23.1 *Procedure*

(a) Where no translation of the international application is required under Rule 12.3(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 unless no search fee has been paid. In the latter case, it shall be transmitted promptly after payment of the search fee.

(b) Where a translation of the international application is furnished under Rule 12.3, a copy of that translation and of the request, which together shall be considered to be the search copy under Article 12(1), shall be transmitted by the receiving Office to the International Searching Authority, unless no search fee has been paid. In the latter case, a copy of the said translation and of the request shall be transmitted promptly after payment of the search fee.

(c) Any sequence listing in computer readable form which is furnished to the receiving Office shall be transmitted by that Office to the International Searching Authority.

Rule 26
**Checking by, and Correcting Before, the Receiving Office
of Certain Elements of the International Application**

26.1 and 26.2 [No change]

26.3 *Checking of Physical Requirements Under Article 14(1)(a)(v)*

(a) Where the international application is filed in a language of publication, the receiving Office shall check:

(i) the international application for compliance with the physical requirements referred to in Rule 11 only to the extent that compliance therewith is necessary for the purpose of reasonably uniform international publication;

(ii) any translation furnished under Rule 12.3 for compliance with the physical requirements referred to in Rule 11 to the extent that compliance therewith is necessary for the purpose of satisfactory reproduction.

(b) Where the international application is filed in a language which is not a language of publication, the receiving Office shall check:

(i) the international application for compliance with the physical requirements referred to in Rule 11 only to the extent that compliance therewith is necessary for the purpose of satisfactory reproduction;

(ii) any translation furnished under Rule 12.3 and the drawings for compliance with the physical requirements referred to in Rule 11 to the extent that compliance therewith is necessary for the purpose of reasonably uniform international publication.

26.3bis Invitation under Article 14(1)(b) to Correct Defects Under Rule 11

The receiving Office shall not be required to issue the invitation under Article 14(1)(b) to correct a defect under Rule 11 where the physical requirements referred to in that Rule are complied with to the extent required under Rule 26.3.

26.3ter Invitation to Correct Defects Under Article 3(4)(i)

(a) Where the abstract or any text matter of the drawings is filed in a language which is different from the language of the description and the claims, the receiving Office shall, unless

- (i) a translation of the international application is required under Rule 12.3(a), or
- (ii) the abstract or the text matter of the drawings is in the language in which the international application is to be published,

invite the applicant to furnish a translation of the abstract or the text matter of the drawings into the language in which the international application is to be published. Rules 26.1(a), 26.2, 26.3, 26.3bis, 26.5 and 29.1 shall apply *mutatis mutandis*.

(b) If, on October 1, 1997, paragraph (a) is not compatible with the national law applied by the receiving Office, paragraph (a) shall not apply to that receiving Office for as long as it continues not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by December 31, 1997. The information received shall be promptly published by the International Bureau in the Gazette.

(c) Where the request does not comply with Rule 12.1(c), the receiving Office shall invite the applicant to file a translation so as to comply with that Rule. Rules 3, 26.1(a), 26.2, 26.5 and 29.1 shall apply *mutatis mutandis*.

(d) If, on October 1, 1997, paragraph (c) is not compatible with the national law applied by the receiving Office, paragraph (c) shall not apply to that receiving Office for as long as it continues not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by December 31, 1997. The information received shall be promptly published by the International Bureau in the Gazette.

26.4 [No change, except for the deletion of the redundant numbering of paragraph “(a)”]

26.5 [No change, except for the deletion of the redundant numbering of paragraph “(a)”]

26.6 [No change]

Rule 26bis **Correction or Addition of Priority Claim**

26bis.1 Correction or Addition of Priority Claim

(a) The applicant may correct or add a priority claim by a notice submitted to the receiving Office or the International Bureau within a time limit of 16 months from the priority date or, where the correction or addition would cause a change in the priority date, 16 months from the priority date as so changed, whichever 16-month period expires first, provided that such a notice may be submitted until the expiration of four months from the international filing date. The correction of a priority claim may include the addition of any indication referred to in Rule 4.10.

(b) Any notice referred to in paragraph (a) received by the receiving Office or the International Bureau after the applicant has made a request for early publication under Article 21(2)(b) shall be considered not to have been submitted, unless that request is withdrawn before the technical preparations for international publication have been completed.

(c) Where the correction or addition of a priority claim causes a change in the priority date, any time limit which is computed from the previously applicable priority date and which has not already expired shall be computed from the priority date as so changed.

26bis.2 Invitation to Correct Defects in Priority Claims

(a) Where the receiving Office or, if the receiving Office fails to do so, the International Bureau, finds that a priority claim does not comply with the requirements of Rule 4.10 or that any indication in a priority claim is not the same as the corresponding indication appearing in the priority document, the receiving Office or the International Bureau, as the case may be, shall invite the applicant to correct the priority claim.

(b) If, in response to an invitation under paragraph (a), the applicant does not, before the expiration of the time limit under Rule 26bis.1(a), submit a notice correcting the priority claim so as to comply with the requirements of Rule 4.10, that priority claim shall, for the purposes of the procedure under the Treaty, be considered not to have been made and the receiving Office or the International Bureau, as the case may be, shall so declare and shall inform the applicant accordingly, provided that a priority claim shall not be considered not to

have been made only because the indication of the number of the earlier application referred to in Rule 4.10(a)(ii) is missing or because an indication in the priority claim is not the same as the corresponding indication appearing in the priority document.

(c) Where the receiving Office or the International Bureau has made a declaration under paragraph (b), the International Bureau shall, upon request made by the applicant and received by the International Bureau prior to the completion of the technical preparations for international publication, and subject to the payment of a special fee whose amount shall be fixed in the Administrative Instructions, publish, together with the international application, information concerning the priority claim which was considered not to have been made. A copy of that request shall be included in the communication under Article 20 where a copy of the pamphlet is not used for that communication or where the international application is not published by virtue of Article 64(3).

Rule 29

International Applications or Designations Considered Withdrawn

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)), or under Rule 12.3(d) (failure to furnish a required translation or, where applicable, to pay a late furnishing fee), or under Rule 92.4(g)(i) (failure to furnish the original of a document), that the international application is considered withdrawn:

(i) to (iv) [No change]

(b) [No change]

29.2 [Remains deleted]

29.3 and 29.4 [No change]

Rule 34

Minimum Documentation

34.1 Definition

(a) and (b) [No change]

(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 former Soviet Union, Switzerland (in the French and German languages only), the United Kingdom, and the United States of America,

(ii) the patents issued by the Federal Republic of Germany and the Russian Federation,

(iii) [No change]

(iv) the inventors' certificates issued by the former Soviet Union,

(v) and (vi) [No change]

(d) [No change]

(e) Any International Searching Authority whose official language, or one of whose official languages, is not Japanese, Russian or Spanish is entitled not to include in its documentation those patent documents of Japan, the Russian Federation and the former Soviet Union as well as those patent documents in the Spanish language, 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 six 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) [No change]

Rule 37 **Missing or Defective Title**

37.1 [No change]

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. Such title shall be established in the language in which the international application is to be published or, if a translation into another language was transmitted under Rule 23.1(b) and the International Searching Authority so wishes, in the language of that translation.

Rule 38 **Missing or Defective Abstract**

38.1 [No change]

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. Such abstract shall be established in the language in which the international application is to be published or, if a translation into another language was transmitted under Rule 23.1(b) and the International Searching Authority so wishes, in the language of that translation.

(b) [No change]

Rule 43
The International Search Report

43.1 to 43.3 [No change]

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 to be published or, if a translation into another language was transmitted under Rule 23.1(b) and the International Searching Authority so wishes, in the language of that translation.

43.5 to 43.8 [No change]

43.9 *Additional Matter*

The international search report shall contain no matter other than that specified in Rules 33.1(b) and (c), 43.1 to 43.3, 43.5 to 43.8, and 44.2, and the indication referred to in Article 17(2)(b), provided that the Administrative Instructions may permit the inclusion in the international search report of any additional matter specified in the Administrative Instructions. The international search report shall not contain, and the Administrative Instructions shall not permit the inclusion of, any expressions of opinion, reasoning, arguments, or explanations.

43.10 [No change]

Rule 44
Transmittal of the International Search Report, Etc.

44.1 [No change]

44.2 [No change, except for the deletion of the redundant numbering of paragraph “(a)”]

44.3 [No change]

Rule 46
Amendment of Claims Before the International Bureau

46.1 to 46.4 [No change]

46.5 [No change, except for the deletion of the redundant numbering of paragraph “(a)”]

Rule 47
Communication to Designated Offices

47.1 and 47.2 [No change]

47.3 *Languages*

(a) The international application communicated under Article 20 shall be in the language in which it is published.

(b) Where the language in which the international application is published is different from the language in which it was filed, the International Bureau shall furnish to any designated Office, upon the request of that Office, a copy of that application in the language in which it was filed.

47.4 [No change]

Rule 48
International Publication

48.1 [No change]

48.2 *Contents*

(a) The pamphlet shall contain:

(i) to (vii) [No change]

(viii) the relevant data from any indications in relation to deposited biological material furnished under Rule 13*bis* separately from the description, together with an indication of the date on which the International Bureau received such indications,

(ix) any information concerning a priority claim considered not to have been made under Rule 26*bis*.2(b), the publication of which is requested under Rule 26*bis*.2(c).

(b) to (i) [No change]

48.3 *Languages of Publication*

(a) If the international application is filed in Chinese, English, French, German, Japanese, Russian or Spanish (“languages of publication”), that application shall be published in the language in which it was filed.

(a-*bis*) If the international application is not filed in a language of publication and a translation into a language of publication has been furnished under Rule 12.3, that application shall be published in the language of that translation.

(b) If the international application is filed in a language which is not a language of publication and no translation into a language of publication is required under Rule 12.3(a), 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 international publication by the prescribed date, or, where Article 64(3)(b) applies, to permit the communication under Article 20 by the end of the 19th month after the priority 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 relevant portions of the comments together with the translation of the International Searching Authority or subsequently to the publication of such translation.

(c) [No change]

48.4 to 48.6 [No change]

Rule 49

Copy, Translation and Fee Under Article 22

49.1 to 49.4 [No change]

49.5 *Contents of and Physical Requirements for the Translation*

(a) For the purposes of Article 22, the translation of the international application shall contain the description (subject to paragraph (a-*bis*)), the claims, any text matter of the drawings and the abstract. If required by the designated Office, the translation shall also, subject to paragraphs (b), (c-*bis*) and (e),

(i) to (iii) [No change]

(a-*bis*) No designated Office shall require the applicant to furnish to it a translation of any text matter contained in the sequence listing part of the description if such sequence listing part complies with Rule 12.1(d) and if the description complies with Rule 5.2(b).

(b) to (l) [No change]

Rule 54
The Applicant Entitled to Make a Demand

54.1 [No change]

54.2 *Right to Make a Demand*

The right to make a demand under Article 31(2) shall exist if the applicant making the demand or, if there are two or more applicants, at least one of them is a resident or national of a Contracting State bound by Chapter II and the international application has been filed with a receiving Office of or acting for a Contracting State bound by Chapter II.

(i) and (ii) [Deleted]

54.3 [No change]

54.4 [No change, except for the deletion of the redundant numbering of paragraph “(a)”]

Rule 55
Languages (International Preliminary Examination)

55.1 [No change]

55.2 *Translation of International Application*

(a) Where neither the language in which the international application is filed nor the language in which the international application is published is accepted by the International Preliminary Examining Authority that is to carry out the international preliminary examination, the applicant shall, subject to paragraph (b), furnish with the demand a translation of the international application into a language which is both:

(i) a language accepted by that Authority, and

(ii) a language of publication.

(b) Where a translation of the international application into a language referred to in paragraph (a) was transmitted to the International Searching Authority under Rule 23.1(b) and the International Preliminary Examining Authority is part of the same national Office or intergovernmental organization as the International Searching Authority, the applicant need not furnish a translation under paragraph (a). In such a case, unless the applicant furnishes a translation under paragraph (a), the international preliminary examination shall be carried out on the basis of the translation transmitted under Rule 23.1(b).

(c) [No change]

(d) If the applicant complies with the invitation within the time limit under paragraph (c), the said requirement shall be considered to have been complied with. If the applicant fails to do so, the demand shall be considered not to have been submitted and the International Preliminary Examining Authority shall so declare.

(e) [Deleted]

55.3 [No change]

Rule 57 **The Handling Fee**

57.1 [No change, except for the deletion of the redundant numbering of paragraph “(a)”]

57.2 *Amount*

(a) [No change]

(b) [Remains deleted]

(c) The handling fee shall be payable in the currency or one of the currencies prescribed by the International Preliminary Examining Authority (“prescribed currency”), it being understood that, when transferred by that Authority to the International Bureau, it shall be freely convertible into Swiss currency. The amount of the handling fee shall be established, in each prescribed currency, for each International Preliminary Examining Authority which prescribes the payment of the handling fee in any currency other than Swiss currency, by the Director General after consultation with the Office with which consultation takes place under Rule 15.2(b) in relation to that currency, or, if there is no such Office, with the Authority which prescribes payment in that currency. The amount so established shall be the equivalent, in round figures, of the amount in Swiss currency set out in the Schedule of Fees. It shall be notified by the International Bureau to each International Preliminary Examining Authority prescribing payment in that prescribed currency and shall be published in the Gazette.

(d) and (e) [No change]

57.3 *Time Limit for Payment; Amount Payable*

The handling fee shall be paid within one month from the date on which the demand was submitted, provided that, where the demand was transmitted to the International Preliminary Examining Authority under Rule 59.3, the handling fee shall be paid within one month from the date of receipt by that Authority. The amount payable shall be the amount applicable on that date of submittal or date of receipt, as the case may be. For the purposes of the preceding two sentences, Rule 59.3(e) shall not apply.

(b) [Remains deleted]

(c) [Deleted]

57.4 [Deleted]

57.5 [Remains deleted]

57.6 *Refund*

The International Preliminary Examining Authority shall refund the handling fee to the applicant:

- (i) [No change]
- (ii) if the demand is considered, under Rule 54.4, not to have been submitted.

Rule 58 **The Preliminary Examination Fee**

58.1 *Right to Ask for a Fee*

(a) [No change]

(b) The amount of the preliminary examination fee, if any, shall be fixed by the International Preliminary Examining Authority. As to the time limit for payment of the preliminary examination fee and the amount payable, the provisions of Rule 57.3 relating to the handling fee shall apply *mutatis mutandis*.

(c) [No change]

58.2 [Deleted]

58.3 [No change]

Rule 58bis **Extension of Time Limits for Payment of Fees**

58bis.1 *Invitation by the International Preliminary Examining Authority*

(a) Where, by the time they are due under Rules 57.3 and 58.1(b), the International Preliminary Examining Authority finds that no fees were paid to it, or that the amount paid to it is insufficient to cover the handling fee and the preliminary examination fee, the Authority shall invite the applicant to pay to it the amount required to cover those fees, together with, where applicable, the late payment fee under Rule 58bis.2, within a time limit of one month from the date of the invitation.

(b) Where the International Preliminary Examining Authority has sent an invitation under paragraph (a) and the applicant has not, within the time limit referred to in that paragraph, paid in full the amount due, including, where applicable, the late payment fee under Rule 58bis.2, the demand shall, subject to paragraph (c), be considered as if it had not been submitted and the International Preliminary Examining Authority shall so declare.

(c) Any payment received by the International Preliminary Examining Authority before that Authority sends the invitation under paragraph (a) shall be considered to have been received before the expiration of the time limit under Rule 57.3 or 58.1(b), as the case may be.

(d) Any payment received by the International Preliminary Examining Authority before that Authority proceeds under paragraph (b) shall be considered to have been received before the expiration of the time limit under paragraph (a).

58bis.2 Late Payment Fee

(a) The payment of fees in response to an invitation under Rule 58bis.1(a) may be subjected by the International Preliminary Examining Authority to the payment to it, for its own benefit, of a late payment fee. The amount of that fee shall be:

- (i) 50% of the amount of unpaid fees which is specified in the invitation, or,
- (ii) if the amount calculated under item (i) is less than the handling fee, an amount equal to the handling fee.

(b) The amount of the late payment fee shall not, however, exceed double the amount of the handling fee.

Rule 59 **The Competent International Preliminary Examining Authority**

59.1 and 59.2 [No change]

59.3 Transmittal of Demand to the Competent International Preliminary Examining Authority

(a) If the demand is submitted to a receiving Office, an International Searching Authority, or an International Preliminary Examining Authority which is not competent for the international preliminary examination of the international application, that Office or Authority shall mark the date of receipt on the demand and, unless it decides to proceed under paragraph (f), transmit the demand promptly to the International Bureau.

(b) If the demand is submitted to the International Bureau, the International Bureau shall mark the date of receipt on the demand.

(c) Where the demand is transmitted to the International Bureau under paragraph (a) or submitted to it under paragraph (b), the International Bureau shall promptly:

- (i) if there is only one competent International Preliminary Examining Authority, transmit the demand to that Authority and inform the applicant accordingly, or
- (ii) if two or more International Preliminary Examining Authorities are competent, invite the applicant to indicate, within 15 days from the date of the invitation or 19 months

from the priority date, whichever is later, the competent International Preliminary Examining Authority to which the demand should be transmitted.

(d) Where an indication is furnished as required under paragraph (c)(ii), the International Bureau shall promptly transmit the demand to the competent International Preliminary Examining Authority indicated by the applicant. Where no indication is so furnished, the demand shall be considered not to have been submitted and the International Bureau shall so declare.

(e) Where the demand is transmitted to a competent International Preliminary Examining Authority under paragraph (c), it shall be considered to have been received on behalf of that Authority on the date marked on it under paragraph (a) or (b), as applicable, and the demand so transmitted shall be considered to have been received by that Authority on that date.

(f) Where an Office or Authority to which the demand is submitted under paragraph (a) decides to transmit that demand directly to the competent International Preliminary Examining Authority, paragraphs (c) to (e) shall apply *mutatis mutandis*.

Rule 60

Certain Defects in the Demand or Elections

60.1 Defects in the Demand

(a) and (b) [No change]

(c) Subject to paragraph (d), if the applicant does not comply with the invitation within the time limit under paragraph (a), the demand shall be considered as if it had not been submitted and the International Preliminary Examining Authority shall so declare.

(d) to (g) [No change]

60.2 Defects in Later Elections

(a) and (b) [No change]

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

(d) [No change]

Rule 61
Notification of the Demand and Elections

61.1 *Notification to the International Bureau and the Applicant*

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

(b) The International Preliminary Examining Authority shall promptly notify the applicant of the date of receipt of the demand. Where the demand has been considered under Rules 54.4, 55.2(d), 58*bis*.1(b) or 60.1(c) as if it had not been submitted or where an election has been considered under Rule 60.1(d) as if it had not been made, the International Preliminary Examining Authority shall notify the applicant and the International Bureau accordingly.

(c) [No change]

61.2 and 61.3 [No change]

61.4 *Publication in the Gazette*

Where a demand has been filed before the expiration of 19 months from the priority date, the International Bureau shall, promptly after the filing of the demand but not before the international publication of the international application, publish in the Gazette information on the demand and the elected States concerned, as provided in the Administrative Instructions.

Rule 62
Copy of Amendments Under Article 19
for the International Preliminary Examining Authority

62.1 *Amendments Made Before the Demand is Filed*

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

62.2 *Amendments Made After the Demand is Filed*

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

Rule 66
Procedure Before the International Preliminary Examining Authority

66.1 to 66.7 [No change]

66.8 *Form of Amendments*

(a) Subject to paragraph (b), the applicant shall be required to submit a replacement sheet for every sheet of the international application which, on account of an amendment, differs from the sheet previously filed. The letter accompanying the replacement sheets shall draw attention to the differences between the replaced sheets and the replacement sheets and shall preferably also explain the reasons for the amendment.

(b) Where the amendment consists in the deletion of passages or in minor alterations or additions, the replacement sheet referred to in paragraph (a) may be a copy of the relevant sheet of the international application containing the alterations or additions, provided that the clarity and direct reproducibility of that sheet are not adversely affected. To the extent that any amendment results in the cancellation of an entire sheet, that amendment shall be communicated in a letter which shall preferably also explain the reasons for the amendment.

66.9 *Language of Amendments*

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

(b) to (d) [No change]

Rule 69
Start of and Time Limit for International Preliminary Examination

69.1 [No change]

69.2 *Time Limit for International Preliminary Examination*

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

- (i) 28 months from the priority date, or
- (ii) eight months from the date of payment of the fees referred to in Rules 57.1 and 58.1(a), or
- (iii) eight months from the date of receipt by the International Preliminary Examining Authority of the translation furnished under Rule 55.2,

whichever expires last.

Rule 70
The International Preliminary Examination Report

70.1 to 70.6 [No change]

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), whether or not such documents are cited in the international search report. Documents cited in the international search report need only be cited in the report when they are considered by the International Preliminary Examining Authority to be relevant.

(b) [No change]

70.8 to 70.15 [No change]

70.16 *Annexes to the Report*

Each replacement sheet under Rule 66.8(a) or (b), each replacement sheet containing amendments under Article 19 and each replacement sheet containing rectifications of obvious errors authorized under Rule 91.1(e)(iii) shall, unless superseded by later replacement sheets or amendments resulting in the cancellation of entire sheets under Rule 66.8(b), be annexed to the report. Amendments under Article 19 which have been considered as reversed by an amendment under Article 34 and letters under Rule 66.8 shall not be annexed.

70.17 [No change, except for the deletion of the redundant numbering of paragraph “(a)”]

Rule 76
Copy, Translation and Fee Under Article 39(1);
Translation of Priority Document

76.1 to 76.3 [Remain deleted]

76.4 *Time Limit for Translation of Priority Document*

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

76.5 and 76.6 [No change]

Rule 80
Computation of Time Limits

80.1 to 80.5 [No change]

80.6 [No change, except for the deletion of the redundant numbering of paragraph “(a)”]

80.7 [No change]

Rule 82^{ter}
Rectification of Errors Made by
the Receiving Office or by the International Bureau

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

If the applicant proves to the satisfaction of any designated or elected Office that the international filing date is incorrect due to an error made by the receiving Office or that the priority claim has been erroneously considered by the receiving Office or the International Bureau not to have been made, and if the error is an error such that, had it been made by the designated or elected Office itself, that Office would rectify it under the national law or national practice, the said Office shall rectify the error and shall treat the international application as if it had been accorded the rectified international filing date or as if the priority claim had not been considered not to have been made.

Rule 86²
The Gazette

86.1 Contents and Form

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

(i) for each published international application, the 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) to (v) [No change]

2. The amendments of Rule 86 will enter into force on January 1, 1998, on the understanding that, for practical reasons, it may not be possible for the new formats of the Gazette to be implemented from that date, in which case the International Bureau will continue to publish the Gazette in the present format for a short period after January 1, 1998, and the new formats will be introduced as soon as possible after that date.

(b) The information referred to in paragraph (a) shall be made available in two forms:

(i) as a Gazette in paper form, which shall contain the data specified by the Administrative Instructions taken from the front page of the pamphlet published under Rule 48 (“bibliographic data”) and the matters referred to in paragraph (a)(ii) to (v);

(ii) as a Gazette in electronic form, which shall contain the bibliographic data, the drawing (if any) appearing on the said front page, and the abstract.

86.2 *Languages; Access to the Gazette*

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

(b) [No change]

(c) The Gazette in electronic form referred to in Rule 86.1(b)(ii) shall be made accessible, in English and French at the same time, by any electronic ways and means specified in the Administrative Instructions. The translations shall be ensured by the International Bureau in English and French. The International Bureau shall ensure that the making accessible of the Gazette in electronic form shall be effected on, or as soon as possible after, the date of publication of the pamphlet containing the international application.

86.3 to 86.6 [No change]

Rule 89bis³

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

89bis.1 International Applications

(a) International applications may, subject to paragraphs (b) to (e), be filed and processed in electronic form or by electronic means, in accordance with the Administrative Instructions, provided that any receiving Office shall permit the filing of international applications on paper.

(b) These Regulations shall apply *mutatis mutandis* to international applications filed in electronic form or by electronic means, subject to any special provisions of the Administrative Instructions.

3. Rules 89bis and 89ter, to be inserted in Part F (Rules Concerning Several Chapters of the Treaty) before Rule 90, will enter into force at the same time as the modifications of the Administrative Instructions implementing those Rules, the effective date to be included in the promulgation of those modifications by the Director General.

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

(d) No national Office or intergovernmental organization shall be obliged to receive or process international applications filed in electronic form or by electronic means unless it has notified the International Bureau that it is prepared to do so in compliance with the applicable provisions of the Administrative Instructions. The International Bureau shall publish the information so notified in the Gazette.

(e) No receiving Office which has given the International Bureau a notification under paragraph (d) may refuse to process an international application filed in electronic form or by electronic means which complies with the applicable requirements under the Administrative Instructions.

89bis.2 Other Documents

Rule 89bis.1 shall apply *mutatis mutandis* to other documents and correspondence relating to international applications.

89bis.3 Transmittal Between Offices

Where the Treaty, these Regulations or the Administrative Instructions provide for documents, notifications, communications or correspondence to be transmitted by one national Office or intergovernmental organization to another, such transmittal may, where so agreed by both the sender and the receiver, be effected in electronic form or by electronic means.

Rule 89ter⁴
Copies in Electronic Form of Documents Filed on Paper

89ter.1 Copies in Electronic Form of Documents Filed on Paper

Any national Office or intergovernmental organization may provide that, where an international application or other document relating to an international application is filed on paper, a copy thereof in electronic form, in accordance with the Administrative Instructions, may be furnished by the applicant.

Rule 91
Obvious Errors in Documents

91.1 Rectification

(a) to (c) [No change]

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

(e) to (g-*quater*) [No change]

Rule 92
Correspondence

92.1 [No change]

92.2 Languages

(a) Subject to Rules 55.1 and 66.9 and to paragraph (b) of this Rule, any letter or document submitted by the applicant to the International Searching Authority or the International Preliminary Examining Authority shall be in the same language as the international application to which it relates. However, where a translation of the international application has been transmitted under Rule 23.1(b) or furnished under Rule 55.2, the language of such translation shall be used.

(b) [No change]

4. Rules 89*bis* and 89*ter*, to be inserted in Part F (Rules Concerning Several Chapters of the Treaty) before Rule 90, will enter into force at the same time as the modifications of the Administrative Instructions implementing those Rules, the effective date to be included in the promulgation of those modifications by the Director General.

(c) [Remains deleted]

(d) and (e) [No change]

92.3 [No change]

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

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

(b) to (h) [No change]

Rule 93 **Keeping of Records and Files**

93.1 to 93.3 [No change]

93.4 *Reproductions*

For the purposes of this Rule, records, copies and files may be kept as photographic, electronic or other reproductions, provided that the reproductions are such that the obligations to keep records, copies and files under Rules 93.1 to 93.3 are met.

Rule 94⁵ **Access to Files**

94.1 *Access to the File Held by the International Bureau*

(a) At the request of the applicant or any person authorized by the applicant, the International Bureau shall furnish, subject to reimbursement of the cost of the service, copies of any document contained in its file.

(b) The International Bureau shall, at the request of any person but not before the international publication of the international application and subject to Article 38, furnish, subject to the reimbursement of the cost of the service, copies of any document contained in its file.

5. Rule 94 as amended will apply only in respect of international applications filed on or after July 1, 1998; present Rule 94 will continue to apply after July 1, 1998, in respect of international applications filed before that date.

94.2 Access to the File Held by the International Preliminary Examining Authority

At the request of the applicant or any person authorized by the applicant, or, once the international preliminary examination report has been established, of any elected Office, the International Preliminary Examining Authority shall furnish, subject to reimbursement of the cost of the service, copies of any document contained in its file.

94.3 Access to the File Held by the Elected Office

If the national law applicable by any elected Office allows access by third parties to the file of a national application, that Office may allow access to any documents relating to the international application, including any document relating to the international preliminary examination, contained in its file, to the same extent as provided by the national law for access to the file of a national application, but not before the international publication of the international application. The furnishing of copies of documents may be subject to reimbursement of the cost of the service.

SCHEDULE OF FEES

as in force from January 1 to June 30, 1998⁶

Fees	Amounts
1. Basic Fee: (Rule 15.2(a))	
(a) if the international application contains not more than 30 sheets	650 ⁷ Swiss francs
(b) if the international application contains more than 30 sheets	650 ⁷ Swiss francs plus 15 Swiss francs for each sheet in excess of 30 sheets
2. Designation Fee: (Rule 15.2(a))	
(a) for designations made under Rule 4.9(a)	150 ⁷ Swiss francs per designation, provided that any designation made under Rule 4.9(a) in excess of 11 shall not require the payment of a designation fee
(b) for designations made under Rule 4.9(b) and confirmed under Rule 4.9(c)	150 ⁷ Swiss francs per designation
3. ⁶ Confirmation Fee: (Rule 15.5(a))	50% of the sum of the designation fees payable under item 2(b)
4. ⁶ Handling Fee: (Rule 57.2(a))	233 Swiss francs

All fees are reduced by 75% for international applications filed by any applicant who is a natural person and who is a national of and resides in a State whose per capita national income is below US\$3,000 (according to the average per capita national income figures used by the United Nations for determining its scale of assessments for the contributions payable for the years 1995, 1996 and 1997); if there are several applicants, each must satisfy those criteria.

6. The Schedule of Fees appearing on this page will enter into force on January 1, 1998; it will be further amended with effect from July 1, 1998, by deleting item 3 and renumbering item 4 as item 3 (see the following page).

7. The new amounts of the basic fee and the designation fee will apply only to international applications filed on or after January 1, 1998.

SCHEDULE OF FEES

as in force from July 1, 1998⁸

Fees	Amounts
1. Basic Fee: (Rule 15.2(a))	
(a) if the international application contains not more than 30 sheets	650 ⁹ Swiss francs
(b) if the international application contains more than 30 sheets	650 ⁹ Swiss francs plus 15 Swiss francs for each sheet in excess of 30 sheets
2. Designation Fee: (Rule 15.2(a))	
(a) for designations made under Rule 4.9(a)	150 ⁹ Swiss francs per designation, provided that any designation made under Rule 4.9(a) in excess of 11 shall not require the payment of a designation fee
(b) for designations made under Rule 4.9(b) and confirmed under Rule 4.9(c) ¹⁰	150 ⁹ Swiss francs per designation
3. Handling Fee: (Rule 57.2(a))	233 Swiss francs

All fees are reduced by 75% for international applications filed by any applicant who is a natural person and who is a national of and resides in a State whose per capita national income is below US\$3,000 (according to the average per capita national income figures used by the United Nations for determining its scale of assessments for the contributions payable for the years 1995, 1996 and 1997); if there are several applicants, each must satisfy those criteria.

[Annex IV follows]

8. The Schedule of Fees appearing on this page will enter into force on July 1, 1998.

9. The new amounts of the basic fee and the designation fee will apply only to international applications filed on or after January 1, 1998.

10. See also Rule 15.5(a) for the confirmation fee, which is also payable.

ANNEX IV

MODIFIED DIRECTIVES OF THE PCT ASSEMBLY
RELATING TO THE ESTABLISHMENT OF
NEW EQUIVALENT AMOUNTS OF CERTAIN FEES

The Assembly established in the following terms the directives referred to in Rules 15.2(d), 16.1(d) and 57.2(e), it being understood that, in the light of experience, the Assembly may at any time modify these directives:

(1) At the time of each ordinary session of the Assembly, the Director General shall undertake consultations along the lines of the consultations referred to in Rules 15.2(b) and 57.2(c) and shall establish new equivalent amounts of the basic fee, designation fee and handling fee in currencies other than Swiss francs according to the exchange rates applicable on the first day of that session, so that their amounts correspond to the amounts of the fees expressed in Swiss currency. Where such adjustment would only slightly affect the income of the International Bureau, the Director General may decide not to proceed with it. Unless otherwise decided by the Assembly, any adjustment under this paragraph shall enter into force on the first day of the calendar year subsequent to the ordinary session referred to above.

(2) Where for more than 30 consecutive days, the exchange rate between Swiss currency and any other currency is by at least 5% higher, or by at least 5% lower, than the last exchange rate applied,

- (i) so far as Rule 15.2(d) is concerned, any receiving Office referred to in the second sentence of Rule 15.2(b) or
- (ii) so far as Rule 57.2(e) is concerned, any receiving Office or International Preliminary Examining Authority referred to in the second sentence of Rule 57.2(c)

may ask the Director General to newly establish the amount of the basic fee, designation fee and/or handling fee in that currency according to the exchange rate prevailing on the day preceding the day on which the request is made. The Director General shall proceed accordingly, as provided in Rules 15.2(d) and 57.2(e).

(3) Where for more than 30 consecutive days, the exchange rate between Swiss currency and any other currency is by at least 10% higher, or by at least 10% lower, than the last exchange rate applied, the Director General shall,

- (i) so far as Rule 15.2(d) is concerned, after consultation with the receiving Office referred to in the second sentence of Rule 15.2(b) or
- (ii) so far as Rule 57.2(e) is concerned, after consultation with the receiving Office or International Preliminary Examining Authority referred to in the second sentence of Rule 57.2(c)

and as provided in Rules 15.2(d) and 57.2(e), as the case may be, newly establish the amount of the basic fee, designation fee and/or handling fee in that currency according to the

exchange rate prevailing on the day preceding the day on which the consultation is initiated by the Director General. Where such adjustment would only slightly affect the income of the International Bureau, the Director General may decide not to proceed with it.

(4) As far as the search fee of any International Searching Authority in any currency other than the currency or currencies fixed by that Authority is concerned, paragraphs (1) to (3) shall, to the extent applicable, apply *mutatis mutandis*, except in the case where the equivalent amount of that fee in Swiss francs is equal to or more than 1,000 Swiss francs, in which case the Director General may decide to apply paragraph (3) as if the percentage referred to in that paragraph was 5%.

[End of Annex and of document]