

# WIPO



PCT/A/34/6

ORIGINAL: English

DATE: October 5, 2005

**WORLD INTELLECTUAL PROPERTY ORGANIZATION**

GENEVA

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

**ASSEMBLY**

**Thirty-Fourth (15<sup>th</sup> Ordinary) Session  
Geneva, September 26 to October 5, 2005**

REPORT

*adopted by the Assembly*

1. The Assembly was concerned with the following items of the Consolidated Agenda (document A/41/1): 1, 2, 3, 4, 5, 6, 21, 23, 26, 28 and 29.
2. The report on the said items, with the exception of item 21, is contained in the General Report (document A/41/17).
3. The report on item 21 is contained in the present document.
4. Mrs. Nadia Ibrahim Mohamed Abdallah (Egypt) was elected Chair of the Assembly; Mr. Yin Xintian (China) and Mr. Paul E. Salmon (United States of America) were elected Vice-Chairs.
5. Mrs. Nadia Ibrahim Mohamed Abdallah presided over the meeting of the Assembly. Mr. Enrique Manalo (Philippines), Chair of the General Assembly, presided over the adoption of the Report.

ITEM 21 OF THE CONSOLIDATED AGENDA:  
MATTERS CONCERNING THE PCT UNION

Reform of the PCT

6. Discussions were based on document PCT/A/34/1.

7. The Delegation of Kenya supported the proposals in the document. Of particular interest to Kenya were matters concerning restoration of the right of priority and central recording of changes by the International Bureau, which would be very beneficial to applicants. The Delegation supported the further work of the Working Group, especially any reforms which served to simplify filing procedures and to safeguard the interests of applicants.

8. The Assembly:

(i) noted the report of the seventh session of the Working Group on Reform of the PCT contained in document PCT/R/WG/7/13 and reproduced in the Annex of document PCT/A/34/1; and

(ii) unanimously approved the proposals concerning the work program in connection with reform of the PCT to be undertaken between the September 2005 and September 2006 sessions of the Assembly, subject to the availability of sufficient funds, including the matters to be considered, the convening of sessions of the Working Group and possibly the Committee on Reform of the PCT, and financial assistance to enable attendance of certain delegations, as set out in paragraph 22(i) and (ii) of document PCT/A/34/1.

Proposed Amendments of the PCT Regulations

9. Discussions were based on documents PCT/A/34/2 Rev. and 3.

10. The Secretariat informed the Assembly that the producer of the CD-ROM version of the PCT Gazette had given notice of termination of its contract with effect from the end of 2005, but that the International Bureau was investigating alternative ways of providing the information in CD-ROM form. The International Bureau wished to confirm that it would still meet the undertaking, given in Annex V, paragraph 11 of document PCT/A/34/2 Rev., to continue to provide a CD-ROM version of the PCT Gazette to any Office or Authority which preferred to receive it in that form rather than online via WIPO's website.

11. The Delegation of Algeria stated that it had supported the process of PCT reform since it began and therefore welcomed the progress which had been made and hoped that all outstanding points would be dealt with in a manner satisfactory to everybody. The Delegation generally supported the proposals set out in document PCT/A/34/2 Rev. but had a reservation with respect to the proposed amendment of Rule 49<sup>ter.2</sup> concerning the restoration of the right of priority subsequent to the period of 12 months provided under the Treaty. The Delegation considered that such an amendment should have been introduced in the Treaty itself. The Delegation stated that it was not opposed to the principle of restoration of the right of priority, but it indicated that the proposed amendments of the Regulations would be incompatible with the national law of Algeria. The Delegation requested that its reservation therefore be noted.

12. In connection with the proposed amendments of Rule 34 set out in Annex III to document PCT/A/34/2 Rev., dealing with the addition of patent documents of the Republic of Korea to the PCT minimum documentation, the Assembly noted the results of the consideration of the matter by the PCT Committee for Technical Cooperation at its 21st session, which was convened during the same period as the Assembly's session (see document PCT/CTC/21/4). The Assembly accepted the recommendation of that Committee that, for reasons of administrative convenience, the proposed amendments of Rule 34 be adopted with the same date of entry into force as the amendments set out in Annex II to document PCT/A/34/2 Rev., and noted the advice of that Committee that, notwithstanding the date of entry into force of the proposed amendments of Rule 34, the International Searching Authorities intended to include the relevant documentation in their databases at the earliest possible date and in any event by January 1, 2007 (see document PCT/CTC/21/4, paragraph 7(iii) and (iv)).

13. The Assembly adopted:

- (i) the amendments of the Regulations under the PCT set out in Annexes I and II;
- (ii) the decisions set out in Annex III relating to entry into force and transitional arrangements in respect of those amendments; and
- (iii) the understandings set out in Annex IV in respect of certain of those amendments.

#### Report on Quality Management Systems for PCT International Authorities

14. Discussions were based on document PCT/A/34/4.

15. The Assembly noted the report on quality management systems for PCT International Authorities contained in document PCT/A/34/4.

#### Status Report on PCT Automation

16. Discussions were based on document PCT/A/34/5.

17. The Secretariat recalled that a revised approach to PCT automation was taken in 2003 and emphasized that the progress made in the area of PCT Automation and PCT Information Systems was further confirmation of the success of that approach. The Secretariat also stated that this approach, together with the ongoing cooperation of PCT Contracting States, would enable it to continue to demonstrate similar progress in the future.

18. The Assembly noted the status report on PCT automation contained in document PCT/A/34/5.

[Annexes follow]

## ANNEX I

AMENDMENTS OF THE REGULATIONS UNDER THE PCT  
TO ENTER INTO FORCE ON APRIL 1, 2006<sup>1</sup>TABLE OF CONTENTS<sup>2</sup>

	page
Rule 4 The Request (Contents) .....	2
4.1 to 4.8 [No change] .....	2
4.9 <i>Designation of States; Kinds of Protection; National and Regional Patents</i> .....	2
4.10 to 4.18 [No change] .....	2
Rule 13bis Inventions Relating to Biological Material .....	3
13bis.1 to 13bis.3 [No change] .....	3
13bis.4 <i>References: Time Limit for Furnishing Indications</i> .....	3
13bis.5 to 13bis.7 [No change] .....	3
Rule 26bis Correction or Addition of Priority Claim .....	4
26bis.1 [No change] .....	4
26bis.2 <i>Invitation to Correct Defects in Priority Claims</i> .....	4
Rule 47 Communication to Designated Offices .....	5
47.1 <i>Procedure</i> .....	5
47.2 to 47.4 [No change] .....	5
Rule 48 International Publication .....	6
48.1 <i>Form and Means</i> .....	6
48.2 <i>Contents</i> .....	6
48.3 <i>Languages of Publication</i> .....	7
48.4 to 48.6 [No change] .....	7
Rule 86 The Gazette .....	8
86.1 <i>Contents</i> .....	8
86.2 <i>Languages; Form and Means of Publication; Timing</i> .....	8
86.3 to 86.6 [No change] .....	8
Rule 87 Communication of Publications .....	9
87.1 <i>Communication of Publications on Request</i> .....	9
87.2 [Deleted] .....	9
Rule 91 Obvious Errors in Documents .....	10
91.1 <i>Rectification</i> .....	10

<sup>1</sup> See Annex III for details concerning entry into force and transitional arrangements.

<sup>2</sup> The Table of Contents is included for convenience; it does not form part of the amendments.

**Rule 4<sup>3</sup>**  
**The Request (Contents)**

4.1 to 4.8 [No change]

4.9 *Designation of States; Kinds of Protection; National and Regional Patents*

(a) [No change]

(b) Notwithstanding paragraph (a)(i), if, on October 5, 2005, the national law of a Contracting State provides that the filing of an international application which contains the designation of that State and claims the priority of an earlier national application having effect in that State shall have the result that the earlier national application ceases to have effect with the same consequences as the withdrawal of the earlier national application, any request in which the priority of an earlier national application filed in that State is claimed may contain an indication that the designation of that State is not made, provided that the designated Office notifies the International Bureau by January 5, 2006, that this paragraph shall apply in respect of designations of that State and that the notification is still in force on the international filing date. The information received shall be promptly published by the International Bureau in the Gazette.

4.10 to 4.18 [No change]

---

<sup>3</sup> See Annex II for further amendments entering into force on April 1, 2007.

**Rule 13bis**  
**Inventions Relating to Biological Material**

13bis.1 to 13bis.3 [No change]

13bis.4 *References: Time Limit for Furnishing Indications*

(a) to (c) [No change]

(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, publish the indication furnished under paragraph (a), and an indication of the date of receipt, together with the international application;

(ii) [No change]

13bis.5 to 13bis.7 [No change]

**Rule 26bis<sup>4</sup>**  
**Correction or Addition of Priority Claim**

26bis.1 [No change]

26bis.2 *Invitation to Correct Defects in Priority Claims*

(a) and (b) [No change]

(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 the international application is not published by virtue of Article 64(3).

---

<sup>4</sup> See Annex II for further amendments entering into force on April 1, 2007.

**Rule 47**  
**Communication to Designated Offices**

47.1 *Procedure*

(a) and (a-*bis*) [No change]

(a-*ter*) [Deleted]

(b) to (e) [No change]

47.2 to 47.4 [No change]



**Rule 48<sup>5</sup>**  
**International Publication**

48.1 *Form and Means*<sup>6</sup>

The form in which and the means by which international applications are published shall be governed by the Administrative Instructions.

48.2 *Contents*<sup>7</sup>

(a) The publication of the international application shall contain:

- (i) a standardized front page;
- (ii) the description;
- (iii) the claims;
- (iv) the drawings, if any;
- (v) subject to paragraph (g), the international search report or the declaration under Article 17(2)(a);
- (vi) any statement filed under Article 19(1), unless the International Bureau finds that the statement does not comply with the provisions of Rule 46.4;
- (vii) any request for rectification referred to in the third sentence of Rule 91.1(f);
- (viii) the 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);
- (x) any declaration referred to in Rule 4.17, and any correction thereof under Rule 26*ter*.1, which was received by the International Bureau before the expiration of the time limit under Rule 26*ter*.1.

(b) to (e) [No change]

(f) If the claims have been amended under Article 19, the publication of the international application shall contain the full text of the claims both as filed and as amended. Any statement referred to in Article 19(1) shall be included as well, unless the International Bureau finds that the statement does not comply with the provisions of Rule 46.4. The date of receipt of the amended claims by the International Bureau shall be indicated.

---

<sup>5</sup> See Annex II for further amendments entering into force on April 1, 2007.

<sup>6</sup> The text of amended Rule 48.1 derives from present Rule 48.1(b); present Rule 48.1(a) is deleted.

<sup>7</sup> Rule 48.2(a)(i) to (iv), (vi), (vii) and (ix) are amended in the English text only.

*[Rule 48.2, continued]*

(g) If, at the time of the completion of the technical preparations for international publication, the international search report is not yet available, the front page shall contain an indication to the effect that that report was not available and that the international search report (when it becomes available) will be separately published together with a revised front page.

(h) If, at the time of the completion of the technical preparations for international publication, the time limit for amending the claims under Article 19 has not expired, the front page shall refer to that fact and indicate that, should the claims be amended under Article 19, then, promptly after receipt by the International Bureau of such amendments within the time limit under Rule 46.1, the full text of the claims as amended will be published together with a revised front page. If a statement under Article 19(1) has been filed, that statement shall be published as well, unless the International Bureau finds that the statement does not comply with the provisions of Rule 46.4.

(i) [Deleted]

48.3 *Languages of Publication*

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

(b) and (c) [No change]

48.4 to 48.6 [No change]

**Rule 86**  
**The Gazette**

86.1 *Contents*<sup>8</sup>

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 publication of the international application, the drawing (if any) appearing on the said front page, and the abstract;

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

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

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

(v) [No change]

86.2 *Languages; Form and Means of Publication; Timing*

(a) The Gazette shall be published in English and French at the same time. The translations shall be ensured by the International Bureau in English and French.

(b) [No change]

(c) The form in which and the means by which the Gazette is published shall be governed by the Administrative Instructions.

(d) The International Bureau shall ensure that, for each published international application, the information referred to in Rule 86.1(i) is published in the Gazette on, or as soon as possible after, the date of publication of the international application.

86.3 to 86.6 [No change]

---

<sup>8</sup> The text of amended Rule 86.1 derives from present Rule 86.1(a); present Rule 86.1(b) is deleted. Rule 86.1(ii) to (iv) are amended in the English text only.

**Rule 87**  
**Communication of Publications**

87.1 *Communication of Publications on Request*

The International Bureau shall communicate, free of charge, every published international application, the Gazette and any other publication of general interest published by the International Bureau in connection with the Treaty or these Regulations, to International Searching Authorities, International Preliminary Examining Authorities and national Offices upon request by the Authority or Office concerned. Further details concerning the form in which and the means by which publications are communicated shall be governed by the Administrative Instructions.

87.2 [Deleted]

**Rule 91<sup>9</sup>**  
**Obvious Errors in Documents**

91.1 *Rectification*

(a) to (e) [No change]

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

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

[Annex II follows]

---

<sup>9</sup> See Annex II for further amendments entering into force on April 1, 2007.

## ANNEX II

AMENDMENTS OF THE REGULATIONS UNDER THE PCT  
TO ENTER INTO FORCE ON APRIL 1, 2007<sup>1</sup>TABLE OF CONTENTS<sup>2</sup>

	page
Rule 2 Interpretation of Certain Words.....	4
2.1 to 2.3 [No change] .....	4
2.4 “ <i>Priority Period</i> ” .....	4
Rule 4 The Request (Contents) .....	5
4.1 <i>Mandatory and Optional Contents; Signature</i> .....	5
4.2 to 4.9 [No change] .....	5
4.10 <i>Priority Claim</i> .....	5
4.11 to 4.17 [No change] .....	5
4.18 <i>Statement of Incorporation by Reference</i> .....	5
4.19 <i>Additional Matter</i> .....	6
Rule 11 Physical Requirements of the International Application .....	7
11.1 to 11.13 [No change] .....	7
11.14 <i>Later Documents</i> .....	7
Rule 12 Language of the International Application and Translation for the Purposes of International Search and International Publication.....	8
12.1 [No change] .....	8
12.1bis <i>Language of Elements and Parts Furnished Under Rule 20.3, 20.5 or 20.6</i> .....	8
12.2 <i>Language of Changes in the International Application</i> .....	8
12.3 <i>Translation for the Purposes of International Search</i> .....	8
12.4 [No change] .....	8
Rule 20 International Filing Date.....	9
20.1 <i>Determination Under Article 11(1)</i> .....	9
20.2 <i>Positive Determination Under Article 11(1)</i> .....	9
20.3 <i>Defects Under Article 11(1)</i> .....	9
20.4 <i>Negative Determination Under Article 11(1)</i> .....	10
20.5 <i>Missing Parts</i> .....	11
20.6 <i>Confirmation of Incorporation by Reference of Elements and Parts</i> .....	12
20.7 <i>Time Limit</i> .....	12
20.8 <i>Incompatibility With National Laws</i> .....	13
Rule 21 Preparation of Copies .....	14
21.1 [No change] .....	14
21.2 <i>Certified Copy for the Applicant</i> .....	14
Rule 22 Transmittal of the Record Copy and Translation .....	15
22.1 <i>Procedure</i> .....	15
22.2 [ <i>Remains deleted</i> ] .....	15
22.3 [No change] .....	15

<sup>1</sup> See Annex III for details concerning entry into force and transitional arrangements.

<sup>2</sup> The Table of Contents is included for convenience; it does not form part of the amendments.

Rule 26	Checking by, and Correcting Before, the Receiving Office of Certain Elements of the International Application .....	16
26.1	<i>Invitation Under Article 14(1)(b) to Correct</i> .....	16
26.2	<i>Time Limit for Correction</i> .....	16
26.2bis to 26.3bis	[No change] .....	16
26.3ter	<i>Invitation to Correct Defects Under Article 3(4)(i)</i> .....	16
26.4	[No change] .....	16
26.5	<i>Decision of the Receiving Office</i> .....	17
26.6	[Deleted] .....	17
Rule 26bis	Correction or Addition of Priority Claim .....	18
26bis.1	<i>Correction or Addition of Priority Claim</i> .....	18
26bis.2	<i>Defects in Priority Claims</i> .....	18
26bis.3	<i>Restoration of Right of Priority by Receiving Office</i> .....	19
Rule 34	Minimum Documentation .....	22
34.1	<i>Definition</i> .....	22
Rule 38	Missing or Defective Abstract .....	23
38.1	[No change] .....	23
38.2	<i>Establishment of Abstract</i> .....	23
38.3	<i>Modification of Abstract</i> .....	23
Rule 43	The International Search Report .....	24
43.1 to 43.6	[No change] .....	24
43.6bis	<i>Consideration of Rectifications of Obvious Mistakes</i> .....	24
43.7 to 43.10	[No change] .....	24
Rule 43bis	Written Opinion of the International Searching Authority .....	25
43bis.1	<i>Written Opinion</i> .....	25
Rule 48	International Publication .....	26
48.1	[No change] .....	26
48.2	<i>Contents</i> .....	26
48.3 to 48.6	[No change] .....	27
Rule 49ter	Effect of Restoration of Right of Priority by Receiving Office; Restoration of Right of Priority by Designated Office .....	28
49ter.1	<i>Effect of Restoration of Right of Priority by Receiving Office</i> .....	28
49ter.2	<i>Restoration of Right of Priority by Designated Office</i> .....	29
Rule 51	Review by Designated Offices .....	31
51.1	<i>Time Limit for Presenting the Request to Send Copies</i> .....	31
51.2	<i>Copy of the Notification</i> .....	31
51.3	[No change] .....	31
Rule 51bis	Certain National Requirements Allowed Under Article 27 .....	32
51bis.1	<i>Certain National Requirements Allowed</i> .....	32
51bis.2 and 51bis.3	[No change] .....	32
Rule 55	Languages (International Preliminary Examination) .....	33
55.1	[No change] .....	33
55.2	<i>Translation of International Application</i> .....	33
55.3	[No change] .....	33
Rule 64	Prior Art for International Preliminary Examination .....	34
64.1	<i>Prior Art</i> .....	34

64.2 and 64.3 [No change].....	34
Rule 66 Procedure Before the International Preliminary Examining Authority .....	35
66.1 <i>Basis of the International Preliminary Examination</i> .....	35
66.1bis to 66.4 [No change].....	35
66.4bis <i>Consideration of Amendments, Arguments and Rectifications of Obvious Mistakes</i> .....	35
66.5 <i>Amendment</i> .....	35
66.6 to 66.9 [No change] .....	35
Rule 70 International Preliminary Report on Patentability by the International Preliminary Examining Authority (International Preliminary Examination Report).....	36
70.1 [No change] .....	36
70.2 <i>Basis of the Report</i> .....	36
70.3 to 70.15 [No change] .....	36
70.16 <i>Annexes to the Report</i> .....	36
70.17 [No change] .....	36
Rule 76 Translation of Priority Document; Application of Certain Rules to Procedures Before Elected Offices.....	37
76.1, 76.2 and 76.3 [ <i>Remain deleted</i> ] .....	37
76.4 [No change] .....	37
76.5 <i>Application of Certain Rules to Procedures Before Elected Offices</i> .....	37
Rule 82 <sup>ter</sup> Rectification of Errors Made by the Receiving Office or by the International Bureau.....	38
82 <sup>ter</sup> .1 <i>Errors Concerning the International Filing Date and the Priority Claim</i> .....	38
Rule 91 Rectification of Obvious Mistakes in the International Application and Other Documents .....	39
91.1 <i>Rectification of Obvious Mistakes</i> .....	39
91.2 <i>Requests for Rectification</i> .....	40
91.3 <i>Authorization and Effect of Rectifications</i> .....	41



**Rule 2**  
**Interpretation of Certain Words**

2.1 to 2.3 [No change]

2.4 “*Priority Period*”

(a) Whenever the term “priority period” is used in relation to a priority claim, it shall be construed as meaning the period of 12 months from the filing date of the earlier application whose priority is so claimed. The day of filing of the earlier application shall not be included in that period.

(b) Rule 80.5 shall apply *mutatis mutandis* to the priority period.

**Rule 4<sup>3</sup>**  
**The Request (Contents)**

4.1 *Mandatory and Optional Contents; Signature*

(a) and (b) [No change]

(c) The request may contain:

(i) and (ii) [No change]

(iii) declarations as provided in Rule 4.17,

(iv) a statement as provided in Rule 4.18,

(v) a request for restoration of the right of priority.

(d) [No change]

4.2 to 4.9 [No change]

4.10 *Priority Claim*

(a) Any declaration referred to in Article 8(1) (“priority claim”) may claim the priority of one or more earlier applications filed either in or for any country party to the Paris Convention for the Protection of Industrial Property or in or for any Member of the World Trade Organization that is not party to that Convention. Any priority claim shall be made in the request; it shall consist of a statement to the effect that the priority of an earlier application is claimed and shall indicate:

(i) the date on which the earlier application was filed;

(ii) to (v) [No change]

(b) to (d) [No change]

4.11 to 4.17 [No change]

4.18 *Statement of Incorporation by Reference*

Where the international application, on the date on which one or more elements referred to in Article 11(1)(iii) were first received by the receiving Office, claims the priority of an earlier application, the request may contain a statement that, where an element of the international application referred to in Article 11(1)(iii)(d) or (e) or a part of the description, claims or drawings referred to in Rule 20.5(a) is not otherwise contained in the international application but is completely contained in the earlier application, that element or part is, subject to confirmation under Rule 20.6, incorporated by reference in the international application for the purposes of Rule 20.6. Such a statement, if not contained in the request on that date, may be added to the request if, and only if, it was otherwise contained in, or submitted with, the international application on that date.

---

<sup>3</sup> See Annex I for amendments entering into force earlier, on April 1, 2006.

4.19 *Additional Matter*

(a) The request shall contain no matter other than that specified in Rules 4.1 to 4.18, provided that the Administrative Instructions may permit, but cannot make mandatory, the inclusion in the request of any additional matter specified in the Administrative Instructions.

(b) If the request contains matter other than that specified in Rules 4.1 to 4.18 or permitted under paragraph (a) by the Administrative Instructions, the receiving Office shall *ex officio* delete the additional matter.

**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, replacement sheets, 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 and International Publication**

12.1 [No change]

12.1bis *Language of Elements and Parts Furnished Under Rule 20.3, 20.5 or 20.6*

An element referred to in Article 11(1)(iii)(d) or (e) furnished by the applicant under Rule 20.3(b) or 20.6(a) and a part of the description, claims or drawings furnished by the applicant under Rule 20.5(b) or 20.6(a) shall be in the language of the international application as filed or, where a translation of the application is required under Rule 12.3(a) or 12.4(a), in both the language of the application as filed and the language of that translation.

12.2 *Language of Changes in the International Application*

(a) [No change]

(b) Any rectification under Rule 91.1 of an obvious mistake 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), 12.4(a) or 55.2(a), rectifications referred to in Rule 91.1(b)(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(b)(i) need only be filed in the language of that translation.

(c) [No change]

12.3 *Translation for the Purposes of International Search*

(a) and (b) [No change]

(c) Where, by the time the receiving Office sends to the applicant the notification under Rule 20.2(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) and (ii) [No change]

(d) and (e) [No change]

12.4 [No change]

**Rule 20<sup>4</sup>**  
**International Filing Date**

*20.1 Determination Under Article 11(1)*

(a) Promptly after receipt of the papers purporting to be an international application, the receiving Office shall determine whether the papers fulfill the requirements of Article 11(1).

(b) For the purposes of Article 11(1)(iii)(c), it shall be sufficient to indicate the name of the applicant in a way which allows the identity of the applicant to be established even if the name is misspelled, the given names are not fully indicated, or, in the case of legal entities, the indication of the name is abbreviated or incomplete.

(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.

*20.2 Positive Determination Under Article 11(1)*

(a) If the receiving Office determines that, at the time of receipt of the papers purporting to be an international application, the requirements of Article 11(1) were fulfilled, the receiving Office shall accord as the international filing date the date of receipt of the international application.

(b) The receiving Office shall stamp the request of the international application which it has accorded an international filing date as prescribed by the Administrative Instructions. The copy whose request has been so stamped shall be the record copy of the international application.

(c) The receiving Office shall promptly notify the applicant of the international application number and the international filing date. At the same time, it shall send to the International Bureau a copy of the notification sent to the applicant, except where it has already sent, or is sending at the same time, the record copy to the International Bureau under Rule 22.1(a).

*20.3 Defects Under Article 11(1)*

(a) Where, in determining whether the papers purporting to be an international application fulfill the requirements of Article 11(1), the receiving Office finds that any of the requirements of Article 11(1) are not, or appear not to be, fulfilled, it shall promptly invite the applicant, at the applicant's option:

---

<sup>4</sup> The text of Rule 20 is replaced in its entirety by that shown here.

*[Rule 20.3(a), continued]*

- (i) to furnish the required correction under Article 11(2); or
- (ii) where the requirements concerned are those relating to an element referred to in Article 11(1)(iii)(d) or (e), to confirm in accordance with Rule 20.6(a) that the element is incorporated by reference under Rule 4.18;

and to make observations, if any, within the applicable time limit under Rule 20.7. If that time limit expires after the expiration of 12 months from the filing date of any application whose priority is claimed, the receiving Office shall call that circumstance to the attention of the applicant.

(b) Where, following an invitation under paragraph (a) or otherwise:

(i) the applicant furnishes to the receiving Office the required correction under Article 11(2) after the date of receipt of the purported international application but on a later date falling within the applicable time limit under Rule 20.7, the receiving Office shall accord that later date as the international filing date and proceed as provided in Rule 20.2(b) and (c);

(ii) an element referred to in Article 11(1)(iii)(d) or (e) is, under Rule 20.6(b), considered to have been contained in the international application on the date on which one or more elements referred to in Article 11(1)(iii) were first received by the receiving Office, the receiving Office shall accord as the international filing date the date on which all of the requirements of Article 11(1) are fulfilled and proceed as provided in Rule 20.2(b) and (c).

(c) If the receiving Office later discovers, or on the basis of the applicant's reply realizes, that it has erred in issuing an invitation under paragraph (a) since the requirements of Article 11(1) were fulfilled when the papers were received, it shall proceed as provided in Rule 20.2.

#### *20.4 Negative Determination Under Article 11(1)*

If the receiving Office does not receive, within the applicable time limit under Rule 20.7, a correction or confirmation referred to in Rule 20.3(a), or if a correction or confirmation has been received but the application still does not fulfill the requirements of Article 11(1), the receiving Office shall:

(i) promptly notify the applicant that the application is not and will not be treated as an international application and shall indicate the reasons therefor;

(ii) notify the International Bureau that the number it has marked on the papers will not be used as an international application number;

(iii) keep the papers constituting the purported international application and any correspondence relating thereto as provided in Rule 93.1; and

(iv) send a copy of the said papers to the International Bureau where, pursuant to a request by the applicant under Article 25(1), the International Bureau needs such a copy and specially asks for it.

## 20.5 *Missing Parts*

(a) Where, in determining whether the papers purporting to be an international application fulfill the requirements of Article 11(1), the receiving Office finds that a part of the description, claims or drawings is or appears to be missing, including the case where all of the drawings are or appear to be missing but not including the case where an entire element referred to in Article 11(1)(iii)(d) or (e) is or appears to be missing, it shall promptly invite the applicant, at the applicant's option:

- (i) to complete the purported international application by furnishing the missing part; or
- (ii) to confirm, in accordance with Rule 20.6(a), that the part was incorporated by reference under Rule 4.18;

and to make observations, if any, within the applicable time limit under Rule 20.7. If that time limit expires after the expiration of 12 months from the filing date of any application whose priority is claimed, the receiving Office shall call that circumstance to the attention of the applicant.

(b) Where, following an invitation under paragraph (a) or otherwise, the applicant furnishes to the receiving Office, on or before the date on which all of the requirements of Article 11(1) are fulfilled but within the applicable time limit under Rule 20.7, a missing part referred to in paragraph (a) so as to complete the international application, that part shall be included in the application and the receiving Office shall accord as the international filing date the date on which all of the requirements of Article 11(1) are fulfilled and proceed as provided in Rule 20.2(b) and (c).

(c) Where, following an invitation under paragraph (a) or otherwise, the applicant furnishes to the receiving Office, after the date on which all of the requirements of Article 11(1) were fulfilled but within the applicable time limit under Rule 20.7, a missing part referred to in paragraph (a) so as to complete the international application, that part shall be included in the application, and the receiving Office shall correct the international filing date to the date on which the receiving Office received that part, notify the applicant accordingly and proceed as provided for in the Administrative Instructions.

(d) Where, following an invitation under paragraph (a) or otherwise, a part referred to in paragraph (a) is, under Rule 20.6(b), considered to have been contained in the purported international application on the date on which one or more elements referred to in Article 11(1)(iii) were first received by the receiving Office, the receiving Office shall accord as the international filing date the date on which all of the requirements of Article 11(1) are fulfilled and proceed as provided in Rule 20.2(b) and (c).

(e) Where the international filing date has been corrected under paragraph (c), the applicant may, in a notice submitted to the receiving Office within one month from the date of the notification under paragraph (c), request that the missing part concerned be disregarded, in which case the missing part shall be considered not to have been furnished and the correction of the international filing date under that paragraph shall be considered not to have been made, and the receiving Office shall proceed as provided for in the Administrative Instructions.



## 20.6 *Confirmation of Incorporation by Reference of Elements and Parts*

(a) The applicant may submit to the receiving Office, within the applicable time limit under Rule 20.7, a written notice confirming that an element or part is incorporated by reference in the international application under Rule 4.18, accompanied by:

(i) a sheet or sheets embodying the entire element as contained in the earlier application or embodying the part concerned;

(ii) where the applicant has not already complied with Rule 17.1(a), (b) or (b-bis) in relation to the priority document, a copy of the earlier application as filed;

(iii) where the earlier application is not in the language in which the international application is filed, a translation of the earlier application into that language or, where a translation of the international application is required under Rule 12.3(a) or 12.4(a), a translation of the earlier application into both the language in which the international application is filed and the language of that translation; and

(iv) in the case of a part of the description, claims or drawings, an indication as to where that part is contained in the earlier application and, where applicable, in any translation referred to in item (iii).

(b) Where the receiving Office finds that the requirements of Rule 4.18 and paragraph (a) have been complied with and that the element or part referred to in paragraph (a) is completely contained in the earlier application concerned, that element or part shall be considered to have been contained in the purported international application on the date on which one or more elements referred to in Article 11(1)(iii) were first received by the receiving Office.

(c) Where the receiving Office finds that a requirement under Rule 4.18 or paragraph (a) has not been complied with or that the element or part referred to in paragraph (a) is not completely contained in the earlier application concerned, the receiving Office shall proceed as provided for in Rule 20.3(b)(i), 20.5(b) or 20.5(c), as the case may be.

## 20.7 *Time Limit*

(a) The applicable time limit referred to in Rules 20.3(a) and (b), 20.4, 20.5(a), (b) and (c), and 20.6(a) shall be:

(i) where an invitation under Rule 20.3(a) or 20.5(a), as applicable, was sent to the applicant, two months from the date of the invitation;

(ii) where no such invitation was sent to the applicant, two months from the date on which one or more elements referred to in Article 11(1)(iii) were first received by the receiving Office.

(b) Where a correction under Article 11(2) or a notice under Rule 20.6(a) confirming the incorporation by reference of an element referred to in Article 11(1)(iii)(d) or (e) is received by the receiving Office after the expiration of the applicable time limit under paragraph (a) but before that Office sends a notification to the applicant under Rule 20.4(i), that correction or notice shall be considered to have been received within that time limit.

20.8 *Incompatibility with National Laws*

(a) If, on October 5, 2005, any of Rules 20.3(a)(ii) and (b)(ii), 20.5(a)(ii) and (d), and 20.6 are not compatible with the national law applied by the receiving Office, the Rules concerned shall not apply to an international application filed with that receiving Office for as long as they continue not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by April 5, 2006. The information received shall be promptly published by the International Bureau in the Gazette.

(b) If, on October 5, 2005, any of Rules 20.3(a)(ii) and (b)(ii), 20.5(a)(ii) and (d), and 20.6 are not compatible with the national law applied by the designated Office, the Rules concerned shall not apply in respect of that Office in relation to an international application in respect of which the acts referred to in Article 22 have been performed before that Office for as long as they continue not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by April 5, 2006. The information received shall be promptly published by the International Bureau in the Gazette.

**Rule 21**  
**Preparation of Copies**

21.1 [No change]

21.2 *Certified Copy for the Applicant*

Against payment of a fee, the receiving Office shall furnish to the applicant, on request, certified copies of the international application as filed and of any corrections thereto.

**Rule 22**  
**Transmittal of the Record Copy and Translation**

22.1 *Procedure*

(a) [No change]

(b) If the International Bureau has received a copy of the notification under Rule 20.2(c) but is not, by the expiration of 13 months from the priority date, in possession of the record copy, it shall remind the receiving Office that it should transmit the record copy to the International Bureau promptly.

(c) If the International Bureau has received a copy of the notification under Rule 20.2(c) but is not, by the expiration of 14 months from the priority date, in possession of the record copy, it shall notify the applicant and the receiving Office accordingly.

(d) to (h) [No change]

22.2 *[Remains deleted]*

22.3 [No change]

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

26.1 *Invitation Under Article 14(1)(b) to Correct*<sup>5</sup>

The receiving Office shall issue the invitation to correct provided for in Article 14(1)(b) as soon as possible, preferably within one month from the receipt of the international application. In the invitation, the receiving Office shall invite the applicant to furnish the required correction, and give the applicant the opportunity to make observations, within the time limit under Rule 26.2.

26.2 *Time Limit for Correction*

The time limit referred to in Rule 26.1 shall be two months from the date of the invitation to correct. It may be extended by the receiving Office at any time before a decision is taken.

26.2*bis* to 26.3*bis* [No change]

26.3*ter* *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) and (ii) [No change]

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, 26.2, 26.3, 26.3*bis*, 26.5 and 29.1 shall apply *mutatis mutandis*.

(b) [No change]

(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, 26.2, 26.5 and 29.1 shall apply *mutatis mutandis*.

(d) [No change]

26.4 [No change]

---

<sup>5</sup> The text of amended Rule 26.1 derives from present Rule 26.1(a); present Rule 26.1(b) is deleted.

26.5 *Decision of the Receiving Office*

The receiving Office shall decide whether the applicant has submitted the correction within the applicable time limit under Rule 26.2, and, if the correction has been submitted within that time limit, whether the international application so corrected is or is not to be considered withdrawn, provided that no international application shall be considered withdrawn for lack of compliance with the physical requirements referred to in Rule 11 if it complies with those requirements to the extent necessary for the purpose of reasonably uniform international publication.

26.6 [Deleted]

**Rule 26bis<sup>6</sup>**  
**Correction or Addition of Priority Claim**

*26bis.1 Correction or Addition of Priority Claim*

(a) The applicant may correct a priority claim or add a priority claim to the request 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) and (c) [No change]

*26bis.2 Defects in Priority Claims*

(a) Where the receiving Office or, if the receiving Office fails to do so, the International Bureau, finds in relation to a priority claim:

- (i) that the international application has an international filing date which is later than the date on which the priority period expired and that a request for restoration of the right of priority under Rule 26bis.3 has not been submitted;
- (ii) that the priority claim does not comply with the requirements of Rule 4.10; or
- (iii) that any indication in the priority claim is inconsistent with 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. In the case referred to in item (i), where the international filing date is within two months from the date on which the priority period expired, the receiving Office or the International Bureau, as the case may be, shall also notify the applicant of the possibility of submitting a request for the restoration of the right of priority in accordance with Rule 26bis.3, unless the receiving Office has notified the International Bureau under Rule 26bis.3(j) of the incompatibility of Rule 26bis.3(a) to (i) with the national law applied by that Office.

(b) If the applicant does not, before the expiration of the time limit under Rule 26bis.1(a), submit a notice correcting the priority claim, that priority claim shall, subject to paragraph (c), for the purposes of the procedure under the Treaty, be considered not to have been made (“considered void”) and the receiving Office or the International Bureau, as the case may be, shall so declare and shall inform the applicant accordingly. Any notice correcting the priority claim which is received before the receiving Office or the International Bureau, as the case may be, so declares and not later than one month after the expiration of that time limit shall be considered to have been received before the expiration of that time limit.

---

<sup>6</sup> See Annex I for amendments entering into force earlier, on April 1, 2006.

*[Rule 26bis.2, continued]*

(c) A priority claim shall not be considered void only because:

(i) the indication of the number of the earlier application referred to in Rule 4.10(a)(ii) is missing;

(ii) an indication in the priority claim is inconsistent with the corresponding indication appearing in the priority document; or

(iii) the international application has an international filing date which is later than the date on which the priority period expired, provided that the international filing date is within the period of two months from that date.

(d) Where the receiving Office or the International Bureau has made a declaration under paragraph (b) or where the priority claim has not been considered void only because paragraph (c) applies, the International Bureau shall publish, together with the international application, information concerning the priority claim as prescribed by the Administrative Instructions, as well as any information submitted by the applicant concerning such priority claim which is received by the International Bureau prior to the completion of the technical preparations for international publication. Such information shall be included in the communication under Article 20 where the international application is not published by virtue of Article 64(3).

(e) Where the applicant wishes to correct or add a priority claim but the time limit under Rule 26bis.1 has expired, the applicant may, prior to the expiration of 30 months from the priority date and subject to the payment of a special fee whose amount shall be fixed in the Administrative Instructions, request the International Bureau to publish information concerning the matter, and the International Bureau shall promptly publish such information.

*26bis.3 Restoration of Right of Priority by Receiving Office*

(a) Where the international application has an international filing date which is later than the date on which the priority period expired but within the period of two months from that date, the receiving Office shall, on the request of the applicant, and subject to paragraphs (b) to (g) of this Rule, restore the right of priority if the Office finds that a criterion applied by it (“criterion for restoration”) is satisfied, namely, that the failure to file the international application within the priority period:

(i) occurred in spite of due care required by the circumstances having been taken;  
or

(ii) was unintentional.

Each receiving Office shall apply at least one of those criteria and may apply both of them.



*[Rule 26bis.3, continued]*

- (b) A request under paragraph (a) shall:
- (i) be filed with the receiving Office within the time limit applicable under paragraph (e);
  - (ii) state the reasons for the failure to file the international application within the priority period; and
  - (iii) preferably be accompanied by any declaration or other evidence required under paragraph (f).
- (c) Where a priority claim in respect of the earlier application is not contained in the international application, the applicant shall submit, within the time limit applicable under paragraph (e), a notice under Rule 26bis.1(a) adding the priority claim.
- (d) The submission of a request under paragraph (a) may be subjected by the receiving Office to the payment to it, for its own benefit, of a fee for requesting restoration, payable within the time limit applicable under paragraph (e). The amount of that fee, if any, shall be fixed by the receiving Office.
- (e) The time limit referred to in paragraphs (b)(i), (c) and (d) shall be two months from the date on which the priority period expired, provided that, where the applicant makes a request for early publication under Article 21(2)(b), any request under paragraph (a) or any notice referred to in paragraph (c) submitted, or any fee referred to in paragraph (d) paid, after the technical preparations for international publication have been completed shall be considered as not having been submitted or paid in time.
- (f) The receiving Office may require that a declaration or other evidence in support of the statement of reasons referred to in paragraph (b)(iii) be filed with it within a time limit which shall be reasonable under the circumstances. The applicant may furnish to the International Bureau a copy of any such declaration or other evidence filed with the receiving Office, in which case the International Bureau shall include such copy in its files.
- (g) The receiving Office shall not refuse, totally or in part, a request under paragraph (a) without giving the applicant the opportunity to make observations on the intended refusal within a time limit which shall be reasonable under the circumstances. Such notice of intended refusal by the receiving Office may be sent to the applicant together with any invitation to file a declaration or other evidence under paragraph (f).
- (h) The receiving Office shall promptly:
- (i) notify the International Bureau of the receipt of a request under paragraph (a);
  - (ii) make a decision upon the request;
  - (iii) notify the applicant and the International Bureau of its decision and the criterion for restoration upon which the decision was based.

*[Rule 26bis.3, continued]*

(i) Each receiving Office shall inform the International Bureau of which of the criteria for restoration it applies and of any subsequent changes in that respect. The International Bureau shall promptly publish such information in the Gazette.

(j) If, on October 5, 2005, paragraphs (a) to (i) are not compatible with the national law applied by the receiving Office, those paragraphs shall not apply in respect of that Office for as long as they continue not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by April 5, 2006. The information received shall be promptly published by the International Bureau in the Gazette.

**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) [No change]

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

(iii) to (vi) [No change]

(d) [No change]

(e) Any International Searching Authority whose official language, or one of whose official languages, is not Japanese, Korean, Russian or Spanish is entitled not to include in its documentation those patent documents of Japan, the Republic of Korea, 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 38**  
**Missing or Defective Abstract**

38.1 [No change]

38.2 *Establishment of Abstract*<sup>7</sup>

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.

38.3 *Modification of Abstract*<sup>7</sup>

The applicant may, until the expiration of one month from the date of mailing of the international search report, submit to the International Searching Authority:

- (i) proposed modifications of the abstract; or
- (ii) where the abstract has been established by the Authority, proposed modifications of, or comments on, that abstract, or both modifications and comments;

and the Authority shall decide whether to modify the abstract accordingly. Where the Authority modifies the abstract, it shall notify the modification to the International Bureau.

---

<sup>7</sup> The text of amended Rule 38.2 derives from present Rule 38.2(a); the text of new Rule 38.3 derives from present Rule 38.2(b).

**Rule 43**  
**The International Search Report**

43.1 to 43.6 [No change]

*43.6bis Consideration of Rectifications of Obvious Mistakes*

(a) A rectification of an obvious mistake that is authorized under Rule 91.1 shall, subject to paragraph (b), be taken into account by the International Searching Authority for the purposes of the international search and the international search report shall so indicate.

(b) A rectification of an obvious mistake need not be taken into account by the International Searching Authority for the purposes of the international search if it is authorized by or notified to that Authority, as applicable, after it has begun to draw up the international search report, in which case the report shall, if possible, so indicate, failing which the International Searching Authority shall notify the International Bureau accordingly and the International Bureau shall proceed as provided for in the Administrative Instructions.

43.7 to 43.10 [No change]

**Rule 43bis**  
**Written Opinion of the International Searching Authority**

*43bis.1 Written Opinion*

(a) [No change]

(b) For the purposes of establishing the written opinion, Articles 33(2) to (6) and 35(2) and (3) and Rules 43.4, 43.6bis, 64, 65, 66.1(e), 66.7, 67, 70.2(b) and (d), 70.3, 70.4(ii), 70.5(a), 70.6 to 70.10, 70.12, 70.14 and 70.15(a) shall apply *mutatis mutandis*.

(c) [No change]

**Rule 48<sup>8</sup>**  
**International Publication**

48.1 [No change]

48.2 *Contents*<sup>9</sup>

(a) The publication of the international application shall contain:

(i) to (vi) [No change]

(vii) where the request for publication under Rule 91.3(d) was received by the International Bureau before the completion of the technical preparations for international publication, any request for rectification of an obvious mistake, any reasons and any comments referred to in Rule 91.3(d);

(viii) [No change]

(ix) any information concerning a priority claim referred to in Rule 26*bis*.2(d);

(x) any declaration referred to in Rule 4.17, and any correction thereof under Rule 26*ter*.1, which was received by the International Bureau before the expiration of the time limit under Rule 26*ter*.1;

(xi) any information concerning a request under Rule 26*bis*.3 for restoration of the right of priority and the decision of the receiving Office upon such request, including information as to the criterion for restoration upon which the decision was based.

(b) Subject to paragraph (c), the front page shall include:

(i) data taken from the request sheet and such other data as are prescribed by the Administrative Instructions;

(ii) a figure or figures where the international application contains drawings, unless Rule 8.2(b) applies;

(iii) the abstract; if the abstract is both in English and in another language, the English text shall appear first;

(iv) where applicable, an indication that the request contains a declaration referred to in Rule 4.17 which was received by the International Bureau before the expiration of the time limit under Rule 26*ter*.1;

(v) where the international filing date has been accorded by the receiving Office under Rule 20.3(b)(ii) or 20.5(d) on the basis of the incorporation by reference under Rules 4.18 and 20.6 of an element or part, an indication to that effect, together with an indication as to whether the applicant, for the purposes of Rule 20.6(a)(ii), relied on compliance with Rule 17.1(a), (b) or (b-*bis*) in relation to the priority document or on a separately submitted copy of the earlier application concerned;

---

<sup>8</sup> See Annex I for amendments entering into force earlier, on April 1, 2006.

<sup>9</sup> Rule 48.2(b)(i) to (iii) are amended in the English text only.

*[Rule 48.2(b), continued]*

(vi) where applicable, an indication that the published international application contains information under Rule 26*bis*.2(d);

(vii) where applicable, an indication that the published international application contains information concerning a request under Rule 26*bis*.3 for restoration of the right of priority and the decision of the receiving Office upon such request;

(viii) where applicable, an indication that the applicant has, under Rule 26*bis*.3(f), furnished copies of any declaration or other evidence to the International Bureau.

(c) to (h) [No change]

(i) If the authorization of a rectification of an obvious mistake in the international application referred to in Rule 91.1 is received by or, where applicable, given by the International Bureau after completion of the technical preparations for international publication, a statement reflecting all the rectifications shall be published, together with the sheets containing the rectifications, or the replacement sheets and the letter furnished under Rule 91.2, as the case may be, and the front page shall be republished.

(j) If, at the time of completion of the technical preparations for international publication, a request under Rule 26*bis*.3 for restoration of the right of priority is still pending, the published international application shall contain, in place of the decision by the receiving Office upon that request, an indication to the effect that such decision was not available and that the decision, when it becomes available, will be separately published.

(k) If a request for publication under Rule 91.3(d) was received by the International Bureau after the completion of the technical preparations for international publication, the request for rectification, any reasons and any comments referred to in that Rule shall be promptly published after the receipt of such request for publication, and the front page shall be republished.

48.3 to 48.6 [No change]



**Rule 49ter**  
**Effect of Restoration of Right of Priority by Receiving Office;**  
**Restoration of Right of Priority by Designated Office**

*49ter.1 Effect of Restoration of Right of Priority by Receiving Office*

(a) Where the receiving Office has restored a right of priority under Rule 26bis.3 based on a finding by it that the failure to file the international application within the priority period occurred in spite of due care required by the circumstances having been taken, that restoration shall, subject to paragraph (c), be effective in each designated State.

(b) Where the receiving Office has restored a right of priority under Rule 26bis.3 based on a finding by it that the failure to file the international application within the priority period was unintentional, that restoration shall, subject to paragraph (c), be effective in any designated State whose applicable national law provides for restoration of the right of priority based on that criterion or on a criterion which, from the viewpoint of applicants, is more favorable than that criterion.

(c) A decision by the receiving Office to restore a right of priority under Rule 26bis.3 shall not be effective in a designated State where the designated Office, a court or any other competent organ of or acting for that designated State finds that a requirement under Rule 26bis.3(a), (b)(i) or (c) was not complied with, taking into account the reasons stated in the request submitted to the receiving Office under Rule 26bis.3(a) and any declaration or other evidence filed with the receiving Office under Rule 26bis.3(b)(iii).

(d) A designated Office shall not review the decision of the receiving Office unless it may reasonably doubt that a requirement referred to in paragraph (c) was complied with, in which case the designated Office shall notify the applicant accordingly, indicating the reasons for that doubt and giving the applicant an opportunity to make observations within a reasonable time limit.

(e) No designated State shall be bound by a decision of the receiving Office refusing a request under Rule 26bis.3 for restoration of the right of priority.

(f) Where the receiving Office has refused a request for the restoration of the right of priority, any designated Office may consider that request to be a request for restoration submitted to that designated Office under Rule 49ter.2(a) within the time limit under that Rule.

(g) If, on October 5, 2005, paragraphs (a) to (d) are not compatible with the national law applied by the designated Office, those paragraphs shall not apply in respect of that Office for as long as they continue not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by April 5, 2006. The information received shall be promptly published by the International Bureau in the Gazette.

*49ter.2 Restoration of Right of Priority by Designated Office*

(a) Where the international application claims the priority of an earlier application and has an international filing date which is later than the date on which the priority period expired but within the period of two months from that date, the designated Office shall, on the request of the applicant in accordance with paragraph (b), restore the right of priority if the Office finds that a criterion applied by it (“criterion for restoration”) is satisfied, namely, that the failure to file the international application within the priority period:

- (i) occurred in spite of due care required by the circumstances having been taken; or
- (ii) was unintentional.

Each designated Office shall apply at least one of those criteria and may apply both of them.

(b) A request under paragraph (a) shall:

(i) be filed with the designated Office within a time limit of one month from the applicable time limit under Article 22;

(ii) state the reasons for the failure to file the international application within the priority period and preferably be accompanied by any declaration or other evidence required under paragraph (c); and

(iii) be accompanied by any fee for requesting restoration required under paragraph (d).

(c) The designated Office may require that a declaration or other evidence in support of the statement of reasons referred to in paragraph (b)(ii) be filed with it within a time limit which shall be reasonable under the circumstances.

(d) The submission of a request under paragraph (a) may be subjected by the designated Office to the payment to it, for its own benefit, of a fee for requesting restoration.

(e) The designated Office shall not refuse, totally or in part, a request under paragraph (a) without giving the applicant the opportunity to make observations on the intended refusal within a time limit which shall be reasonable under the circumstances. Such notice of intended refusal may be sent by the designated Office to the applicant together with any invitation to file a declaration or other evidence under paragraph (c).

(f) Where the national law applicable by the designated Office provides, in respect of the restoration of the right of priority, for requirements which, from the viewpoint of applicants, are more favorable than the requirements provided for under paragraphs (a) and (b), the designated Office may, when determining the right of priority, apply the requirements under the applicable national law instead of the requirements under those paragraphs.

(g) Each designated Office shall inform the International Bureau of which of the criteria for restoration it applies, of the requirements, where applicable, of the national law applicable in accordance with paragraph (f), and of any subsequent changes in that respect. The International Bureau shall promptly publish such information in the Gazette.

*[Rule 49ter.2, continued]*

(h) If, on October 5, 2005, paragraphs (a) to (g) are not compatible with the national law applied by the designated Office, those paragraphs shall not apply in respect of that Office for as long as they continue not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by April 5, 2006. The information received shall be promptly published by the International Bureau in the Gazette.

**Rule 51**  
**Review by Designated Offices**

51.1 *Time Limit for Presenting the Request to Send Copies*

The time limit referred to in Article 25(1)(c) shall be two months computed from the date of the notification sent to the applicant under Rule 20.4(i), 24.2(c) or 29.1(ii).

51.2 *Copy of the Notification*

Where the applicant, after having received a negative determination under Article 11(1), requests the International Bureau, under Article 25(1), to send copies of the file of the purported international application to any of the named Offices he has attempted to designate, he shall attach to his request a copy of the notification referred to in Rule 20.4(i).

51.3 [No change]

**Rule 51bis**  
**Certain National Requirements Allowed Under Article 27**

*51bis.1 Certain National Requirements Allowed*

(a) to (d) [No change]

(e) The national law applicable by the designated Office may, in accordance with Article 27, require the applicant to furnish a translation of the priority document, provided that such a translation may only be required:

(i) where the validity of the priority claim is relevant to the determination of whether the invention concerned is patentable; or

(ii) where the international filing date has been accorded by the receiving Office under Rule 20.3(b)(ii) or 20.5(d) on the basis of the incorporation by reference under Rules 4.18 and 20.6 of an element or part, for the purposes of determining under Rule 82<sup>ter</sup>.1(b) whether that element or part is completely contained in the priority document concerned, in which case the national law applicable by the designated Office may also require the applicant to furnish, in the case of a part of the description, claims or drawings, an indication as to where that part is contained in the translation of the priority document.

(f) [No change]

*51bis.2 and 51bis.3* [No change]

**Rule 55**  
**Languages (International Preliminary Examination)**

55.1 [No change]

55.2 *Translation of International Application*

(a) [No change]

(a-*bis*) A translation of the international application into a language referred to in paragraph (a) shall include any element referred to in Article 11(1)(iii)(d) or (e) furnished by the applicant under Rule 20.3(b) or 20.6(a) and any part of the description, claims or drawings furnished by the applicant under Rule 20.5(b) or 20.6(a).

(b) [No change]

(c) If the requirements of paragraphs (a) and (a-*bis*) are not complied with and paragraph (b) does not apply, the International Preliminary Examining Authority shall invite the applicant to furnish the required translation within a time limit which shall be reasonable under the circumstances. That time limit shall not be less than one month from the date of the invitation. It may be extended by the International Preliminary Examining Authority at any time before a decision is taken.

(d) If the applicant complies with the invitation within the time limit under paragraph (c), the said requirements 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.

55.3 [No change]

**Rule 64**  
**Prior Art for International Preliminary Examination**

64.1 *Prior Art*

(a) [No change]

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

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

(ii) where the international application under international preliminary examination claims the priority of an earlier application and has an international filing date which is within the priority period, the filing date of such earlier application, unless the International Preliminary Examining Authority considers that the priority claim is not valid;

(iii) where the international application under international preliminary examination claims the priority of an earlier application and has an international filing date which is later than the date on which the priority period expired but within the period of two months from that date, the filing date of such earlier application, unless the International Preliminary Examining Authority considers that the priority claim is not valid for reasons other than the fact that the international application has an international filing date which is later than the date on which the priority period expired.

64.2 and 64.3 [No change]

**Rule 66**

**Procedure Before the International Preliminary Examining Authority**

66.1 *Basis of the International Preliminary Examination*

(a) to (d) [No change]

(d-*bis*) A rectification of an obvious mistake that is authorized under Rule 91.1 shall, subject to Rule 66.4*bis*, be taken into account by the International Preliminary Examining Authority for the purposes of the international preliminary examination.

(e) [No change]

66.1*bis* to 66.4 [No change]

66.4*bis* *Consideration of Amendments, Arguments and Rectifications of Obvious Mistakes*

Amendments, arguments and rectifications of obvious mistakes need not be taken into account by the International Preliminary Examining Authority for the purposes of a written opinion or the international preliminary examination report if they are received by, authorized by or notified to that Authority, as applicable, after it has begun to draw up that opinion or report.

66.5 *Amendment*

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

66.6 to 66.9 [No change]



**Rule 70**  
**International Preliminary Report on Patentability**  
**by the International Preliminary Examining Authority**  
**(International Preliminary Examination Report)**

70.1 [No change]

70.2 *Basis of the Report*

(a) to (d) [No change]

(e) If a rectification of an obvious mistake is taken into account under Rule 66.1, the report shall so indicate. If a rectification of an obvious mistake is not taken into account pursuant to Rule 66.4*bis*, the report shall, if possible, so indicate, failing which the International Preliminary Examining Authority shall notify the International Bureau accordingly and the International Bureau shall proceed as provided for in the Administrative Instructions.

70.3 to 70.15 [No change]

70.16 *Annexes to the Report*

(a) Each replacement sheet under Rule 66.8(a) or (b) and each replacement sheet containing amendments under Article 19 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. Replacement sheets containing 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.

(b) [No change]

70.17 [No change]

**Rule 76**  
**Translation of Priority Document;**  
**Application of Certain Rules to Procedures Before Elected Offices**

76.1, 76.2 and 76.3 *[Remain deleted]*

76.4 [No change]

76.5 *Application of Certain Rules to Procedures Before Elected Offices*

Rules 13<sup>ter</sup>.3, 22.1(g), 47.1, 49, 49<sup>bis</sup>, 49<sup>ter</sup> and 51<sup>bis</sup> shall apply, provided that:

(i) to (v) [No change]

**Rule 82ter**  
**Rectification of Errors Made**  
**by the Receiving Office or by the International Bureau**

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

(a) 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 void by the receiving Office or the International Bureau, and if the error is an error such that, had it been made by the designated or elected Office itself, that Office would rectify it under the national law or national practice, the said Office shall rectify the error and shall treat the international application as if it had been accorded the rectified international filing date or as if the priority claim had not been considered void.

(b) Where the international filing date has been accorded by the receiving Office under Rule 20.3(b)(ii) or 20.5(d) on the basis of the incorporation by reference under Rules 4.18 and 20.6 of an element or part but the designated or elected Office finds that:

- (i) the applicant has not complied with Rule 17.1(a), (b) or (b-bis) in relation to the priority document;
- (ii) a requirement under Rule 4.18, 20.6(a)(i) or 51bis.1(e)(ii) has not been complied with; or
- (iii) the element or part is not completely contained in the priority document concerned;

the designated or elected Office may, subject to paragraph (c), treat the international application as if the international filing date had been accorded under Rule 20.3(b)(i) or 20.5(b), or corrected under Rule 20.5(c), as applicable, provided that Rule 17.1(c) shall apply *mutatis mutandis*.

(c) The designated or elected Office shall not treat the international application under paragraph (b) as if the international filing date had been accorded under Rule 20.3(b)(i) or 20.5(b), or corrected under Rule 20.5(c), without giving the applicant the opportunity to make observations on the intended treatment, or to make a request under paragraph (d), within a time limit which shall be reasonable under the circumstances.

(d) Where the designated or elected Office, in accordance with paragraph (c), has notified the applicant that it intends to treat the international application as if the international filing date had been corrected under Rule 20.5(c), the applicant may, in a notice submitted to that Office within the time limit referred to in paragraph (c), request that the missing part concerned be disregarded for the purposes of national processing before that Office, in which case that part shall be considered not to have been furnished and that Office shall not treat the international application as if the international filing date had been corrected.

**Rule 91<sup>10</sup>**  
**Rectification of Obvious Mistakes**  
**in the International Application and Other Documents**

91.1 *Rectification of Obvious Mistakes*

(a) An obvious mistake in the international application or another document submitted by the applicant may be rectified in accordance with this Rule if the applicant so requests.

(b) The rectification of a mistake shall be subject to authorization by the “competent authority”, that is to say:

(i) in the case of a mistake in the request part of the international application or in a correction thereof—by the receiving Office;

(ii) in the case of a mistake in the description, claims or drawings or in a correction thereof, unless the International Preliminary Examining Authority is competent under item (iii)—by the International Searching Authority;

(iii) in the case of a mistake in the description, claims or drawings or in a correction thereof, or in an amendment under Article 19 or 34, where a demand for international preliminary examination has been made and has not been withdrawn and the date on which international preliminary examination shall start in accordance with Rule 69.1 has passed—by the International Preliminary Examining Authority;

(iv) in the case of a mistake in a document not referred to in items (i) to (iii) submitted to the receiving Office, the International Searching Authority, the International Preliminary Examining Authority or the International Bureau, other than a mistake in the abstract or in an amendment under Article 19—by that Office, Authority or Bureau, as the case may be.

(c) The competent authority shall authorize the rectification under this Rule of a mistake if, and only if, it is obvious to the competent authority that, as at the applicable date under paragraph (f), something else was intended than what appears in the document concerned and that nothing else could have been intended than the proposed rectification.

(d) In the case of a mistake in the description, claims or drawings or in a correction or amendment thereof, the competent authority shall, for the purposes of paragraph (c), only take into account the contents of the description, claims and drawings and, where applicable, the correction or amendment concerned.

---

<sup>10</sup> See Annex I for amendments entering into force earlier, on April 1, 2006. The text of Rule 91 is replaced in its entirety by that shown here with entry into force on April 1, 2007.

[Rule 91.1, continued]

(e) In the case of a mistake in the request part of the international application or a correction thereof, or in a document referred to in paragraph (b)(iv), the competent authority shall, for the purposes of paragraph (c), only take into account the contents of the international application itself and, where applicable, the correction concerned, or the document referred to in paragraph (b)(iv), together with any other document submitted with the request, correction or document, as the case may be, any priority document in respect of the international application that is available to the authority in accordance with the Administrative Instructions, and any other document contained in the authority's international application file at the applicable date under paragraph (f).

(f) The applicable date for the purposes of paragraphs (c) and (e) shall be:

(i) in the case of a mistake in a part of the international application as filed—the international filing date;

(ii) in the case of a mistake in a document other than the international application as filed, including a mistake in a correction or an amendment of the international application—the date on which the document was submitted.

(g) A mistake shall not be rectifiable under this Rule if:

(i) the mistake lies in the omission of one or more entire elements of the international application referred to in Article 3(2) or one or more entire sheets of the international application;

(ii) the mistake is in the abstract;

(iii) the mistake is in an amendment under Article 19, unless the International Preliminary Examining Authority is competent to authorize the rectification of such mistake under paragraph (b)(iii); or

(iv) the mistake is in a priority claim or in a notice correcting or adding a priority claim under Rule 26*bis*.1(a), where the rectification of the mistake would cause a change in the priority date;

provided that this paragraph shall not affect the operation of Rules 20.4, 20.5, 26*bis* and 38.3.

(h) Where the receiving Office, the International Searching Authority, the International Preliminary Examining Authority or the International Bureau discovers what appears to be a rectifiable obvious mistake in the international application or another document, it may invite the applicant to request rectification under this Rule.

## 91.2 Requests for Rectification

A request for rectification under Rule 91.1 shall be submitted to the competent authority within 26 months from the priority date. It shall specify the mistake to be rectified and the proposed rectification, and may, at the option of the applicant, contain a brief explanation. Rule 26.4 shall apply *mutatis mutandis* as to the manner in which the proposed rectification shall be indicated.

### 91.3 *Authorization and Effect of Rectifications*

(a) The competent authority shall promptly decide whether to authorize or refuse to authorize a rectification under Rule 91.1 and shall promptly notify the applicant and the International Bureau of the authorization or refusal and, in the case of refusal, of the reasons therefor. The International Bureau shall proceed as provided for in the Administrative Instructions, including, as required, notifying the receiving Office, the International Searching Authority, the International Preliminary Examining Authority and the designated and elected Offices of the authorization or refusal.

(b) Where the rectification of an obvious mistake has been authorized under Rule 91.1, the document concerned shall be rectified in accordance with the Administrative Instructions.

(c) Where the rectification of an obvious mistake has been authorized, it shall be effective:

(i) in the case of a mistake in the international application as filed, from the international filing date;

(ii) in the case of a mistake in a document other than the international application as filed, including a mistake in a correction or an amendment of the international application, from the date on which that document was submitted.

(d) Where the competent authority refuses to authorize a rectification under Rule 91.1, the International Bureau shall, upon request submitted to it by the applicant within two months from the date of the refusal, and subject to the payment of a special fee whose amount shall be fixed in the Administrative Instructions, publish the request for rectification, the reasons for refusal by the authority and any further brief comments that may be submitted by the applicant, if possible together with the international application. A copy of the request, reasons and comments (if any) shall if possible be included in the communication under Article 20 where the international application is not published by virtue of Article 64(3).

(e) The rectification of an obvious mistake need not be taken into account by any designated Office in which the processing or examination of the international application has already started prior to the date on which that Office is notified under Rule 91.3(a) of the authorization of the rectification by the competent authority.

(f) A designated Office may disregard a rectification that was authorized under Rule 91.1 if it finds that it would not have authorized the rectification if it had been the competent authority.

[Annex III follows]

## ANNEX III

AMENDMENTS OF THE REGULATIONS UNDER THE PCT:  
DECISIONS RELATING TO ENTRY INTO FORCE  
AND TRANSITIONAL ARRANGEMENTS

## 1. The amendments set out in Annex I:

(a) shall enter into force on April 1, 2006, and shall apply to international applications whose international filing date is on or after April 1, 2006;

(b) shall not apply to international applications whose international filing date is before April 1, 2006, provided that:

(i) Rules 13*bis*.4, 47.1, 48.1 and 48.2 as amended shall apply to international applications whose international filing date is before April 1, 2006, and which are published under Article 21 on or after April 1, 2006;

(ii) Rules 26*bis*.2 and 91.1 as amended shall apply to international applications whose international filing date is before April 1, 2006, and whose communication under Article 20 is on or after April 1, 2006;

(iii) Rules 86.1 and 86.2 as amended shall apply to issues of the Gazette published on or after April 1, 2006, regardless of the international filing dates of the international applications to which those issues relate;

(iv) Rules 87.1 and 87.2 as amended shall apply to the communication of international applications, the Gazette and other publications on or after April 1, 2006, regardless, where applicable, of the international filing dates of the international applications concerned.

## 2. The amendments set out in Annex II:

(a) shall enter into force on April 1, 2007, and shall apply to international applications whose international filing date is on or after April 1, 2007, provided that Rules 4.1(c)(iv), 4.18, 4.19, 12.1*bis*, 12.3, 20.1 to 20.9, 21.2, 22.1, 26.1, 26.2, 26.3*ter*, 26.5, 26.6, 48.2(b)(v), 51.1, 51.2, 51*bis*.1, 55.2 and 82*ter*.1 as amended shall not apply to international applications in respect of which one or more elements referred to in Article 11(1)(iii) were first received by the receiving Office before April 1, 2007;

(b) shall not apply to international applications whose international filing date is before April 1, 2007, provided that:

(i) Rule 34.1 as amended shall apply to any international search carried out on or after April 1, 2007;

(ii) Rules 43.6*bis*, 43*bis*.1(b), 66.1, 66.4*bis* and 70.2(e) as amended shall apply to international search reports, written opinions and international preliminary examination reports established on or after April 1, 2007, in respect of international applications whose international filing date is before April 1, 2007, as though the references in those Rules to rectifications of obvious mistakes authorized under Rule 91.1 as amended were references to rectifications of obvious errors authorized under existing Rule 91.1;

(iii) Rule 49*ter*.2 as amended shall apply to international applications whose international filing date is before April 1, 2007, and in respect of which the acts referred to in Article 22(1) are performed on or after April 1, 2007;

(iv) Rule 76.5 as amended, to the extent that it has the effect of making Rule 49*ter*.2 applicable, shall apply to international applications whose international filing date is before April 1, 2007, and in respect of which the acts referred to in Article 39(1)(a) are performed on or after April 1, 2007.

3. Furthermore, in relation to the amendments set out in Annex II:

(a) information as to incompatibility given to the International Bureau under existing Rule 20.4(d) shall be considered to remain effective under Rule 20.1(d) as amended;

(b) information as to incompatibility given to the International Bureau under Rule 51*bis*.1(f) in relation to existing Rule 51*bis*.1(e) shall be considered to remain effective under Rule 51*bis*.1(f) in relation to Rule 51*bis*.1(e) as amended.

[Annex IV follows]



## ANNEX IV

AMENDMENTS OF THE REGULATIONS UNDER THE PCT:  
UNDERSTANDINGS RELATING TO CERTAIN PROVISIONS

1. In connection with the adoption of amended Rule 4.9(b) (see Annex I), the Assembly noted that, in order to avoid the need for complicated transitional provisions, notifications of incompatibility under amended Rule 4.9(b) will be required to be given by all affected designated Offices, even if they have already given notifications under the existing Rule.
2. In connection with the adoption of amended Rule 20.8(a) (see Annex II), the Assembly noted that the availability of the procedure under that Rule depends on the existence of an incompatibility with the Rules referred to in that Rule of the national law applicable to a national Office in its capacity as a PCT receiving Office, as distinct from its capacity as a designated Office, and that such incompatibility might arise either from express national law provisions dealing with the subject matter in question or from the more general operation of the national law.
3. In connection with the adoption of amended Rule 26*bis*.3(a) (see Annex II), the Assembly noted that a receiving Office may, if it wishes, apply both criteria for restoration and leave the choice to the applicant as to which criterion is sought to be applied in a specific case, noting that it would be advantageous for the applicant to obtain a positive finding by the receiving Office on the stricter criterion of “due care” since such a finding would in general be effective in all designated States, unlike a finding on the less strict “unintentionality” criterion. Furthermore, a receiving Office will be free to apply, upon request of the applicant, first the “due care” criterion and then, if the receiving Office finds that that criterion is not complied with, the “unintentionality” criterion.
4. In connection with the adoption of amended Rule 26*bis*.3(f) (see Annex II), the Assembly noted that the question of what information or evidence each receiving Office is entitled to require in support of a request for restoration of the right of priority under Rule 26*bis*.3(f) is a matter left to national law and practice.
5. In connection with the adoption of amended Rule 48.2(a)(xi) (see Annex II), the Assembly noted that information as to the criterion for restoration upon which the decision by the Office was based (“due care” criterion, “unintentionality” criterion, or both criteria) will be included in the publication of the international application under new Rule 48.2(a)(xi).
6. In connection with the adoption of amended Rule 49*ter*.1(g) (see Annex II), the Assembly noted that the giving of a notification of incompatibility under Rule 49*ter*.1(g) will have both procedural and substantive effects; for example, there will be consequences both in terms of calculating the time limit for national phase entry before the designated Office concerned and in terms of the assessment of novelty and inventive step during the national search and examination.
7. In connection with the adoption of amended Rule 49*ter*.2(a) (see Annex II), the Assembly noted that a designated Office may, if it wishes, apply both criteria for restoration and leave the choice to the applicant as to which criterion is sought to be applied in a specific case. Furthermore, a designated Office will be free to apply, upon request of the applicant, first the “due care” criterion and then, if the designated Office finds that that criterion is not complied with, the “unintentionality” criterion.

8. In connection with the adoption of amended Rule 49*ter*.2(b)(i) (see Annex II), the Assembly noted that, where the effect of the international application provided for in Article 11(3) ceases because the applicant fails to perform the acts referred to in Article 22 or 39(1) within the applicable time limit but the designated Office reinstates the rights of the applicant with respect to that international application in accordance with Rule 49.6 or 76.5(ii), respectively, such reinstatement will extend to all time limits calculated on the basis of the applicable time limit under Article 22 or 39(1), respectively, including the time limit under Rule 49*ter*.2(b)(i).

9. In connection with the adoption of amended Rule 49*ter*.2(h) (see Annex II), the Assembly noted that any designated Office whose national law provides for a criterion more stringent than the “due care” criterion or does not provide for restoration of the right of priority at all may make use of the reservation provision in Rule 49*ter*.2(h). Designated Offices whose applicable national law provides for the restoration of the right of priority based on requirements similar but not identical to the requirements under Rule 49*ter*.2(a) and (b) will not need to make use of the reservation provision if the requirements under the applicable national law are, from the viewpoint of applicants, at least as favorable as the requirements under Rule 49*ter*.2(a) and (b).

10. In connection with the adoption of amended Rule 91.3(f) (see Annex II), the Assembly noted that, where a designated Office has given a notification of incompatibility under Rule 20.8(b) in respect of the application of provisions relating to the incorporation by reference of missing elements or parts, that Office will not be obliged, in determining for the purposes of Rule 91.3(f) whether it would have authorized the rectification, to take into account the contents of any description, claims or drawings incorporated by reference under Rule 20.6.

[End of Annex IV and of document]