

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

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INFORMATION RELATING TO THE REVIEW OF THE APPLICATION OF ARTICLE 9SEXIES(1)(B) OF THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS

Document prepared by the International Bureau

INTRODUCTION

1. At the ninth session of the Working Group on the Legal Development of the Madrid System for the International Registration of Marks (hereinafter referred to as “the Working Group”) which took place in Geneva from July 4 to 8, 2011, document MM/LD/WG/9/5 entitled “Information Relating to the Review of the Application of Article 9sexies (1)(b) of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks” was discussed. The Working Group agreed to recommend that the Madrid Union Assembly neither repeal nor restrict the scope of paragraph (1)(b) of Article 9sexies of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (hereinafter referred to, respectively, as “Article 9sexies”, “the Protocol” and “the Agreement”) and decided that the review of the application of paragraph (1)(b) should again be included in the agenda of the following session of the Working Group.
2. The Madrid Union Assembly, at its forty-fourth session (19th Ordinary) held in Geneva, between September 26 and October 5, 2011, adopted the recommendation made by the Working Group.
3. This document provides updated information concerning the application of paragraph (1)(b) of Article 9sexies and, in particular, with respect to the non-application of declarations made under Article 5(2)(b) and (c) and/or Article 8(7) of the Protocol, in the mutual relations between States both bound by both the Agreement and the Protocol.

4. More particularly, in Part I, the document reviews in general terms the number of designations recorded in the course of the year 2011, and seeks to present an analysis of the numerical impact of designations which were affected by the application of paragraph (1)(b) of Article 9*sexies*, in the context of Article 5(2) (notification of provisional refusal) and Article 8(7) (individual fees) of the Protocol.
5. In Part II, the document elaborates upon the data by identifying the particular Contracting Parties (Offices of origin and Offices of designated Contracting Parties) concerned by the non-application of Article 5(2) following the application of paragraph (1)(b) of Article 9*sexies*. This part of the document also makes a brief reference to the evolving statistical data in relation to the recording of statements of grant of protection sent in accordance with Rule 18*ter* of the Common Regulations under the Madrid Agreement Concerning the International Registration of Marks and the Protocol Relating to that Agreement (hereinafter referred to as “the Common Regulations”). Part III of the document then performs the same exercise with regard to Article 8(7).
6. In Part IV, the document presents an analysis of the distribution of (standard) fees collected in 2009, 2010 and 2011, resulting from the application of Article 9*sexies* of the Protocol.
7. Finally, in Part V, the document performs a simulation of the amounts of individual fees that would have been payable in the cases referred to in Part IV, had Article 8(7) of the Protocol been operative in the years in question.

I. REVIEW OF THE APPLICATION OF PARAGRAPH (1)(B) OF ARTICLE 9SEXIES OF THE PROTOCOL

8. The following 55 States are bound by both the Agreement and the Protocol: Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium¹, Bhutan, Bosnia and Herzegovina, Bulgaria, China, Croatia, Cuba, Cyprus, Czech Republic, Democratic People’s Republic of Korea, Egypt, France, Germany, Hungary, Iran (Islamic Republic of), Italy, Kazakhstan, Kenya, Kyrgyzstan, Latvia, Lesotho, Liberia, Liechtenstein, Luxembourg¹, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Namibia, Netherlands¹, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, San Marino, Serbia, Sierra Leone, Slovakia, Slovenia, Spain, Sudan, Swaziland, Switzerland, Syrian Arab Republic, Tajikistan, The former Yugoslav Republic of Macedonia, Ukraine and Viet Nam.

TIME LIMIT FOR NOTIFICATION OF A PROVISIONAL REFUSAL

9. A declaration under Article 5(2)(b) of the Protocol has been made by 15 of those 55 States, of which a further seven have also made a declaration under Article 5(2)(c) of the Protocol (see paragraphs 20 and 21, below).

¹ The territories of Belgium, Luxembourg and the Kingdom of the Netherlands in Europe are to be deemed a single country, for the application of the Agreement, as from January 1, 1971, and for the application of the Protocol, as from April 1, 1998. Under Articles 9*quater* of the Agreement and the Protocol, their common Office is the Benelux Office for Intellectual Property (BOIP).

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

11. The most recent year for which complete data is available is 2011.

12. In the year 2011, a total of 346,099 designations (from international registrations and subsequent designations), was recorded. Of those, 144,223 were designations in which the Office of origin or the Office of the Contracting Party of the holder and the Office of the designated Contracting Party were Offices of States both bound by both the Agreement and the Protocol.

13. Out of this number of 144,223 designations, in 52,780 cases a declaration made under Article 5(2) of the Protocol was rendered inoperative by the application of paragraph (1)(b) of Article 9*sexies* of the Protocol.

14. In the following table, there is a compilation of data concerning designations in international registrations and subsequent designations for the period from 2008 to 2011.

Table I: Designations in Which a Declaration Made Under Article 5(2) (Time Limit for Notification of Provisional Refusal) of the Protocol Was Rendered Inoperative (2008 - 2011)

Year	Total Designations Recorded	States Bound Only by one Treaty	States Both Bound by Both Treaties	Designations in Which a Declaration Under Article 5(2) of the Protocol Was Inoperative
2008	378,894	198,155	180,739	61,049
2009	303,344	158,433	144,911	49,745
2010	299,476	166,218	133,258	46,349
2011	346,099	201,876	144,223	52,780

FEES

15. Of the 55 States referred to in paragraph 8, above, 17 have made a declaration under Article 8(7) of the Protocol (see paragraph 29, below).

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

17. In the year 2011, a total of 577,262 designations were recorded, in the sense of newly recorded international registrations, subsequent designations, or the renewal of existing international registrations. Of those, 339,295 concerned designations in which the Office of origin or the Office of the Contracting Party of the holder and the Office of the designated Contracting Party were Offices of States both bound by both the Agreement and the Protocol.

18. Out of this number of 339,295, in 2011, in 117,052 cases a declaration made under Article 8(7) of the Protocol was rendered inoperative by the application of paragraph (1)(b) of Article 9*sexies* of the Protocol.

19. In the following table, there is a compilation of data concerning designations in international registrations, subsequent designations and renewals for the period from 2008 to 2011.

Table II: Designations in Which a Declaration Made Under Article 8(7) (Individual Fees) of the Protocol Was Rendered Inoperative (2008 - 2011)

Year	New Recorded Designations and Renewed Designations	States Both Bound by Both Treaties	Declaration Under Article 8(7) of the Protocol Inoperative
2008	608,483	352,763	113,312
2009	530,504	309,446	98,880
2010	553,766	305,238	101,634
2011	577,262	339,295	117,052

II. REVIEW OF THE NON-APPLICATION OF DECLARATIONS MADE UNDER ARTICLE 5(2)(B) AND (C) OF THE PROTOCOL – DESIGNATIONS RECORDED IN 2011, IN WHICH SUCH DECLARATIONS WERE RENDERED INOPERATIVE

20. The following 15 States, bound by both the Agreement and the Protocol, have made a declaration under Article 5(2)(b) of the Protocol, extending the time limit for refusal to 18 months: Armenia, Belarus, Bulgaria, China, Cyprus, Iran (Islamic Republic of), Italy, Kenya, Poland, San Marino, Slovakia, Switzerland, Syrian Arab Republic, Tajikistan and Ukraine.

21. Of those 15 States, seven have also made a declaration under Article 5(2)(c) of the Protocol, extending the time limit for refusal beyond 18 months in the case of refusal based upon opposition: China, Cyprus, Iran (Islamic Republic of), Italy, Kenya, Syrian Arab Republic and Ukraine.

22. It has already been noted above that in 2011, as a result of the application of paragraph 1(b) of Article 9*sexies*, 52,780 designations were subjected to the standard time limit of 12 months for the notification of a provisional refusal.

23. The Offices of origin of the following States generated almost 75 per cent of the designations recorded in 2011, in which a declaration under Article 5(2) of the Protocol was rendered inoperative: Germany (21%), France (14%), China (11%), Italy (10%), Russian Federation (9%) and Switzerland (9%). On the other hand, with regard to designated Contracting Parties, the following States represented over 70 per cent of the designations recorded in 2011, in which a declaration under Article 5(2) of the Protocol was rendered inoperative: China (19%), Switzerland (18%), Ukraine (13%), Belarus (9%), Italy (7%) and Poland (5%).

24. Table III, below, sets out, by reference to Contracting Parties concerned, the numbers of designations, recorded in 2011, in which a declaration made under Article 5(2) of the Protocol was rendered inoperative. The rows across present those designations by Office of origin. The columns down represent designated Contracting Parties. For instance, looking at the first row, it can be seen that the Office of Germany was the Office of origin in a total of 11,089 such designations. Of those designations, the Office of China was the Office of a designated Contracting Party in 2,490 cases, the Office of Switzerland in 3,601 cases, and so on.

25. In the table, rows and columns are presented in descending order, sorted by grand total. Therefore, in 2011, the Office of Germany was the Office of origin in the highest number of such designations, i.e., in which a declaration made under Article 5(2) of the Protocol was rendered inoperative. On the other hand, China was the most designated Contracting Party with respect to such designations.

Table III: Designations Recorded in 2011, in Which a Declaration Made Under Article 5(2) of the Protocol Was Rendered Inoperative

2011 Office of Origin	Designated Office															Grand Total
	CN	CH	UA	BY	IT	PL	AM	IR	TJ	BG	SY	SK	SM	KE	CY	
DE	2,490	3,601	1,204	826	445	466	275	401	231	233	256	238	162	155	106	11,089
FR	2,023	1,850	774	318	578	316	139	245	111	138	214	140	134	110	87	7,177
CN	0	557	686	448	922	515	212	648	176	250	383	204	149	304	158	5,612
IT	1,650	1,107	666	381	0	132	201	276	167	90	228	68	218	74	54	5,312
RU	445	180	932	860	271	279	458	77	458	245	70	176	33	31	133	4,648
CH	1,373	0	686	533	388	199	237	293	158	121	207	138	150	126	74	4,683
BX	867	824	384	272	148	140	162	118	124	84	102	82	90	118	71	3,586
AT	201	526	180	124	163	103	34	49	31	69	35	104	36	19	27	1,701
PL	89	55	253	196	55	0	60	15	34	90	17	108	12	3	25	1,012
HU	16	22	169	158	40	121	156	3	91	114	6	126	5	2	4	1,033
ES	329	145	136	90	62	36	46	100	24	18	68	21	37	29	10	1,151
UA	117	40	0	250	65	114	155	20	101	77	13	60	3	2	27	1,044
CZ	80	70	171	95	62	114	33	21	13	80	21	129	5	3	31	928
BG	53	36	90	58	27	39	52	24	47	0	30	29	15	21	26	547
SI	17	34	35	29	65	24	24	20	23	44	5	23	2	1	12	358
LI	52	65	36	35	13	9	28	23	23	10	40	13	10	11	3	371
BY	15	1	131	0	14	39	26	3	17	7	2	6	0	0	3	264
LV	22	13	66	50	9	19	24	1	23	5	1	6	0	0	5	244
RO	20	11	39	14	14	13	4	8	1	34	2	20	2	1	12	195
RS	7	14	36	27	10	8	7	1	4	61	6	8	3	1	2	195
PT	48	52	18	8	13	9	6	6	3	3	5	6	3	4	4	188
VN	56	26	27	9	8	5	1	1	0	3	2	4	1	1	2	146
KZ	8	4	42	37	3	3	22	2	16	2	1	1	0	1	0	142
AM	24	11	29	27	3	10	0	9	6	8	8	1	0	0	5	141
SK	8	12	35	13	11	34	2	0	0	11	1	0	1	0	4	132
MC	34	34	9	3	22	5	2	2	1	8	4	1	3	2	3	133
HR	15	14	11	1	10	13	2	1	0	31	0	19	1	0	2	120
MD	9	1	38	23	4	17	5	2	2	4	2	3	0	0	0	110
EG	17	9	11	7	9	5	7	9	6	5	20	5	7	8	4	129
MA	11	33	0	0	29	1	4	1	0	0	1	0	0	2	1	83
IR	12	7	5	5	8	4	8	0	6	4	6	4	1	3	6	79
CY	16	9	9	4	4	4	2	3	3	2	7	1	2	5	0	71

2011 Office of Origin	Designated Office															Grand Total
	CN	CH	UA	BY	IT	PL	AM	IR	TJ	BG	SY	SK	SM	KE	CY	
MK	4	3	2	1	5	2	0	0	0	13	0	1	0	0	1	32
BA	2	6	1	0	4	3	1	2	0	9	0	1	0	0	0	29
CU	3	2	3	2	0	0	1	2	1	0	3	0	1	1	0	19
SM	2	3	2	2	2	2	1	0	0	1	0	2	0	0	0	17
AZ	1	2	3	2	1	1	1	1	6	0	0	0	0	2	0	20
MN	7	2	0	0	5	0	0	0	0	0	0	0	0	0	0	14
KE	5	2	1	0	0	0	0	2	0	0	1	0	0	0	0	11
KG	1	0	1	1	0	0	1	0	2	0	0	0	0	0	0	6
ME	2	2	0	0	0	0	0	0	0	0	0	0	0	0	0	4
SY	2	0	1	0	0	0	0	1	0	0	0	0	0	0	0	4
Grand Total	10,153	9,385	6,922	4,909	3,492	2,804	2,399	2,390	1,909	1,874	1,767	1,748	1,086	1,040	902	52,780

26. For the sake of completeness, the following table provides data with regard to designations recorded in 2011 concerning States, both bound by both the Agreement and the Protocol, where the Office of the designated Contracting Party had not made a declaration under Article 5(2) of the Protocol. A total of 91,443 such designations was recorded in 2011, between States both bound by both the Agreement and the Protocol. The following table presents this information in a manner similar to the one used in Table III.

Table IV: Designations Concerning States Both Bound by Both the Agreement and the Protocol, Recorded in 2011, in Which the Office of the Designated Contracting Party Had Not Made a Declaration Under Article 5(2) of the Protocol

2011 Office of Origin	Designated Office											Grand Total
	RU	KZ	HR	DE	RS	FR	VN	ES	MA	EG	Others	
DE	2,213	546	867	2	789	484	579	365	376	466	7,708	14,395
CN	1,158	379	284	862	243	892	667	719	350	590	6,855	12,999
FR	1,404	316	477	588	383	0	576	615	911	471	4,993	10,907
CH	1,192	408	489	646	479	515	386	281	365	429	5,408	10,832
IT	1,390	365	520	221	442	207	315	197	376	414	3,659	8,434
RU	0	1,007	169	373	172	288	155	247	49	90	3,876	6,426
BX	783	221	280	311	257	296	231	179	266	215	2,908	6,115
AT	264	53	241	330	170	103	50	85	43	45	1,559	3,038
UA	259	214	42	101	39	59	20	59	11	20	1,217	2,069
PL	260	100	65	74	63	42	44	47	30	33	1,157	1,915
Others	1,518	713	775	536	896	495	317	309	318	265	7,918	14,313
Grand Total	10,441	4,322	4,209	4,044	3,933	3,381	3,340	3,103	3,095	3,038	48,537	91,443

STATEMENTS OF GRANT OF PROTECTION – RULE 18TER(1)

27. It is recalled, briefly, that under Rule 18ter(1) of the Common Regulations under the Madrid Agreement and the Madrid Protocol, it is now compulsory for an Office to send to the International Bureau a statement of grant of protection where, before the expiry of the refusal period, all procedures have been completed and there is no ground for the Office to refuse protection.

28. Since the obligation introduced by Rule 18ter(1) became mandatory², the International Bureau has seen a significant increase in the number of statements of grant of protection sent by Offices. In 2011, the number of such statements recorded by the International Bureau increased by 105 per cent, compared to 2010. It is expected that the number of designations with respect to which protection will come to be claimed under the principle of tacit acceptance will decrease significantly in the coming years.

Table V: Statements of Grant of Protection Recorded From 2008 to 2011

Year	Total
2008	66,935
2009	82,592
2010	84,312
2011	173,207

III. REVIEW OF THE NON-APPLICATION OF DECLARATIONS MADE UNDER ARTICLE 8(7) OF THE PROTOCOL – NEW DESIGNATIONS AND RENEWED DESIGNATIONS, RECORDED IN 2011, IN WHICH DECLARATIONS UNDER ARTICLE 8(7) OF THE PROTOCOL WERE RENDERED INOPERATIVE

29. The following 17 States, bound by both the Agreement and the Protocol, have made a declaration under Article 8(7) of the Protocol, requiring the payment of individual fees: Armenia, Belarus, Belgium, Bulgaria, China, Cuba, Italy, Kyrgyzstan, Luxembourg, Netherlands, Republic of Moldova, San Marino, Switzerland, Syrian Arab Republic, Tajikistan, Ukraine and Viet Nam.

30. It has already been noted above that in 2011, as a result of the application of paragraph 1(b) of Article 9sexies, 117,052 new designations and renewed designations were subject to the payment of standard fees, instead of individual fees.

31. The Offices of origin of the following States generated almost 80 per cent of the designations, recorded or renewed in 2011, in which a declaration under Article 8(7) of the Protocol was rendered inoperative: Germany (23%), France (20%), Italy (11%), Switzerland (11%), Benelux (8%) and China (6%). On the other hand, with regard to designated Contracting Parties, the following States represented over 70 per cent of the designations recorded in 2011, in which a declaration under Article 8(7) of the Protocol was rendered inoperative: Switzerland (17%), China (13%), Italy (11%), Benelux (11%), Ukraine (10%) and Belarus (7%).

32. Table VI, below, sets out, by reference to the Contracting Party concerned, the number of designations, recorded in 2011, in which a declaration made under Article 8(7) of the Protocol was rendered inoperative. The rows across present those designations by Office of origin. The columns down represent designated Contracting Parties. For instance, looking at the first row, it can be seen that the Office of Germany was the Office of origin in a total of such 26,754 designations. On the other hand, the Office of Switzerland was the Office of a designated Contracting Party in 6,954 of such designations, the Office of China in 3,851 designations, and so on.

² As of January 1, 2011, see Rule 40(5) of the Common Regulations.

2011	Designated Office															Grand Total
ME	2	2														4
SY		2			1											3
Grand Total	20,041	15,085	13,333	13,037	11,235	8,017	5,911	5,666	4,967	4,164	3,907	3,637	3,511	2,591	1,950	117,052

34. For the sake of completeness, the following table provides data with regard to designations recorded in 2011, concerning States, both bound by both the Agreement and the Protocol, where the Office of the designated Contracting Party had not made a declaration under Article 8(7) of the Protocol. A total of 222,243 such designations was recorded in 2011, between States both bound by both the Agreement and the Protocol. The table presents this information in a manner similar to that used in Table VI.

Table VII: Designations Concerning States both bound by both the Agreement and the Protocol, recorded or renewed in 2011, in which the Office of the designated Contracting Party had not made a declaration under Article 8(7) of the Protocol

2011	Designated Office											Grand Total
Office of Origin	RU	DE	AT	FR	ES	RS	PT	HR	HU	PL	Others	
DE	3,939	3	3,767	2,957	2,233	2,030	1,764	2,038	1,931	2,118	22,780	43,596
FR	2,723	3,310	2,344		3,189	1,697	2,498	1,200	1,562	1,333	19,856	37,940
CH	2,094	2,377	2,104	2,253	1,465	1,329	1,079	1,083	1,022	860	15,666	31,310
IT	2,437	1,527	1,454	1,754	1,343	1,477	1,163	1,306	1,064	781	14,306	28,732
BX	1,457	1,638	1,058	1,824	1,115	840	888	728	756	729	11,033	20,513
CN	1,278	986	388	1,016	804	303	482	324	359	585	6,525	14,885
AT	469	884		503	327	487	245	576	540	336	4,367	8,674
ES	510	424	297	501		313	489	222	228	169	3,153	6,573
RU		412	199	314	264	192	147	183	188	311	2,210	6,460
CZ	296	193	156	137	109	156	81	161	206	241	1,736	3,026
Others	1,997	912	634	827	615	1,138	383	938	669	790	8,903	20,534
Grand Total	17,200	12,666	12,401	12,086	11,464	9,962	9,219	8,759	8,525	8,253	110,535	222,243

IV. DISTRIBUTION OF FEES, COLLECTED IN 2009, 2010 AND 2011, RESULTING FROM THE APPLICATION OF PARAGRAPH (1)(B) OF ARTICLE 9SEXIES OF THE PROTOCOL

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

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

37. According to paragraphs (5) and (6) of Article 8 of the Protocol, the supplementary and complementary fees collected are divided amongst the interested Contracting Parties in proportion to the number of designations received and according to a coefficient which is established in Rule 37 of the Common Regulations.

38. As a result, in the years 2009, 2010 and 2011, States bound by the Agreement and the Protocol, which had made a declaration under Article 8(7) of the Protocol, instead of receiving the notional amounts corresponding to individual fees contained in the simulation in Table XI, below, received 11.20, 11.77 and 12.10 million Swiss francs, respectively, as their share in the supplementary and complementary fees collected with respect to designations in which the Office of origin was the Office of a State also bound by both treaties. Those amounts are set out more precisely in Tables VIII, IX and X, below.

Table VIII: Distribution of Standard Fees, Collected in 2009, in Which a Declaration Under Article 8(7) of the Protocol Was Rendered Inoperative

2009	Complementary Fees	Supplementary Fees	Total in Swiss Francs
Armenia	430,105.17	33,908.00	464,013.17
Belarus	818,848.63	65,355.85	884,204.48
Benelux	1,247,719.23	105,051.97	1,352,771.20
Bulgaria	655,929.03	53,753.55	709,682.58
China	1,286,811.19	101,074.87	1,387,886.06
Cuba	252,239.80	19,935.00	272,174.80
Italy	831,460.32	70,026.90	901,487.22
Kyrgyzstan	417,079.45	32,857.92	449,937.37
Republic of Moldova	535,649.08	42,478.66	578,127.74
San Marino	369,042.62	30,448.98	399,491.60
Switzerland	1,719,981.79	144,625.59	1,864,607.38
Ukraine	1,184,006.49	95,209.23	1,279,215.72
Viet Nam	610,920.66	47,729.57	658,650.23
Total	10,359,793.46	842,456.09	11,202,249.55

Table IX: Distribution of Standard Fees, Collected in 2010, in Which a Declaration Under Article 8(7) of the Protocol Was Rendered Inoperative

2010	Complementary Fees	Supplementary Fees	Total in Swiss Francs
Armenia	433,760.58	32,872.35	466,632.93
Belarus	841,689.83	64,973.36	906,663.19
Benelux	1,240,675.27	102,102.35	1,342,777.62
Bulgaria	646,354.70	51,365.42	697,720.12
China	1,485,187.08	110,558.50	1,595,745.58
Cuba	284,830.40	22,083.13	306,913.53
Italy	838,432.34	68,791.96	907,224.30
Kyrgyzstan	411,358.19	31,139.22	442,497.41
Republic of Moldova	544,858.15	41,090.43	585,948.58
San Marino	335,692.97	27,161.11	362,854.08
Switzerland	1,733,585.02	141,169.21	1,874,754.23
Syrian Arab Republic	284,601.80	19,007.30	303,609.10
Ukraine	1,201,042.47	92,189.22	1,293,231.69
Viet Nam	636,982.27	48,032.48	685,014.75
Total	10,919,051.07	852,536.04	11,771,587.11

Table X: Distribution of Standard Fees, Collected in 2011, in Which a Declaration Under Article 8(7) of the Protocol Was Rendered Inoperative

2011	Complementary Fees	Supplementary Fees	Total in Swiss Francs
Armenia	451,154.99	36,479.91	487,634.91
Belarus	871,172.50	70,046.26	941,218.76
Benelux	1,137,025.65	99,598.91	1,236,624.56
Bulgaria	619,590.70	52,263.43	671,854.13
China	1,605,610.86	127,835.42	1,733,446.29
Cuba	279,334.77	23,147.82	302,482.59
Italy	767,098.87	66,966.91	834,065.78
Kyrgyzstan	421,596.95	34,510.74	456,107.69
Republic of Moldova	536,895.88	43,593.05	580,488.92
San Marino	319,497.61	27,533.24	347,030.85
Switzerland	1,695,977.24	146,753.54	1,842,730.78
Syrian Arab Republic	217,172.63	14,497.53	231,670.16
Tajikistan	383,464.82	31,155.11	414,619.93
Ukraine	1,217,294.91	100,478.00	1,317,772.91
Viet Nam	651,969.17	51,741.00	703,710.16
Total	11,174,857.56	926,600.86	12,101,458.43

V. SIMULATION OF THE REPEAL OF PARAGRAPH (1)(B) OF ARTICLE 9SEXIES OF THE PROTOCOL – NOTIONAL AMOUNTS OF INDIVIDUAL FEES PAYABLE FOR 2009, 2010 AND 2011

39. Taking into account the number of new designations and renewed designations recorded in 2009, 2010 and 2011 in which a declaration under Article 8(7) of the Protocol was rendered inoperative, the International Bureau has been able to simulate the impact the said declaration would have had in the fee distribution of the concerned States, had it been operative.

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

41. In 2009, 2010 and 2011, in the absence of paragraph (1)(b) of Article 9sexies of the Protocol, States bound by both the Agreement and the Protocol which had made a declaration under Article 8(7) of the Protocol would have received 47.33, 49.24 and 50.60 million Swiss francs, respectively, as individual fees.

Table XI: Simulation of Individual Fee Distribution, Based on New Designations and Renewed Designations, Recorded in 2009, 2010 and 2011, Assuming that Declarations Under Article 8(7) of the Protocol Had Been Operative

	2009	2010	2011
Armenia	971,056	996,564	1,070,117
Belarus	4,729,350	4,943,950	5,243,950
Benelux	5,929,374	6,139,981	5,047,666
Bulgaria	2,357,795	2,175,157	1,843,944
China	8,590,558	10,692,894	11,593,862
Cuba ³	798,004	921,368	826,919
Italy	2,546,949	2,624,850	2,147,674
Kyrgyzstan	2,027,040	1,919,760	2,049,140
Republic of Moldova	2,031,786	2,422,615	2,273,332
San Marino	1,105,975	990,003	999,356
Switzerland	7,470,300	7,562,900	7,676,200
Syrian Arab Republic ⁴	N/A	316,933	1,613,848
Tajikistan ⁵	N/A	N/A	505,950
Ukraine	5,984,517	6,044,662	6,295,266
Viet Nam	2,788,904	1,490,596	1,417,673
Total	47,331,608	49,242,233	50,604,897

42 *The Working Group is invited to:*

(i) consider the information presented in this document; and,

(ii) indicate any further course of action concerning the review of the application of paragraph (1)(b) of Article 9sexies of the Protocol.

[End of document]

³ Only the first part of a two-part fee has been taken into account (Cuba has also made a two-part fee declaration under Rule 34(3)(a) of the Common Regulations).

⁴ The simulation takes into account that the declaration concerning individual fees made by the Syrian Arab Republic entered into force on October 14, 2010.

⁵ The simulation takes into account that the Madrid Protocol entered into force, with respect to Tajikistan, on June 30, 2011.