

## **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. According to paragraph (1)(a) of Article 9*sexies* of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (hereinafter referred to, respectively, as “Article 9*sexies*”, “the Protocol” and “the Agreement”), in the mutual relations between States that are both bound by both treaties of the Madrid System for the International Registration of Marks, the Protocol alone shall be applicable. Nevertheless, paragraph (1)(b) of the same Article renders inoperative in these mutual relations two declarations; the declarations made under Article 5(2) of the Protocol, extending the refusal period, and Article 8(7) of the Protocol, concerning individual fees. As a result, in these mutual relations, the standard refusal period of one year and the standard regime of complementary and supplementary fees apply. Paragraph (2) of Article 9*sexies* requires that the Madrid Union Assembly review the application of paragraph (1)(b) with a view to restrict its scope or repeal it.
2. At its tenth session, the Working Group on the Legal Development of the Madrid System for the International Registration of Marks (hereinafter referred to as “the Working Group”) discussed document MM/LD/WG/10/3 entitled “Information Relating to the Review of the Application of Article 9*sexies*(1)(b) of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks”.
3. The Working Group concluded that, at the time, Article 9*sexies*(1)(b) should be neither repealed nor restricted and that its application would be reviewed by the Working Group after a period of three years. It was further agreed that any member State of the Madrid Union, or the International Bureau, may propose that the issue be revisited at an earlier time.

4. This document provides updated information concerning the application of paragraph (1)(b) of Article 9*sexies* and, in particular, with respect to the non-application of declarations made under Article 5(2)(b) and (c) or Article 8(7) of the Protocol, in the mutual relations between States both bound by both the Agreement and the Protocol.
5. More particularly, in Part I, the document reviews, in general terms, the number of designations recorded in the course of the year 2014, and seeks to present an overview of the number of designations that were affected by paragraph (1)(b) of Article 9*sexies*, in the context of Article 5(2) (notification of provisional refusal) and Article 8(7) (individual fees) of the Protocol.
6. In Part II, the document elaborates upon the data by identifying the particular Contracting Parties concerned by the non-application of declarations made under Article 5(2) of the Protocol, following the application of paragraph (1)(b) of Article 9*sexies*. Part III of the document then performs the same exercise with regard to Article 8(7) of the Protocol.
7. In Part IV, the document presents an analysis of the distribution of (standard) fees collected in 2012, 2013 and 2014, resulting from the application of Article 9*sexies*.
8. Finally, in Part V, the document performs a simulation of the amounts of individual fees that would have been payable in the cases referred to in Part IV, had Article 8(7) of the Protocol been operative in the years in question.

#### **PART I: REVIEW OF THE APPLICATION OF PARAGRAPH (1)(B) OF ARTICLE 9SEXIES OF THE PROTOCOL**

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

#### **TIME LIMIT FOR NOTIFICATION OF A PROVISIONAL REFUSAL**

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

<sup>1</sup> Since June 29, 2013, in the relations between the Syrian Arab Republic and countries party both to the Agreement and the Protocol, the provisions of Article 9*sexies*(1)(b) of the Protocol ceased to apply.

<sup>2</sup> 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).

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

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

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

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

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

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

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

## FEES

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

17. 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.

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

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

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

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

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

**PART II: REVIEW OF THE NON-APPLICATION OF DECLARATIONS MADE UNDER ARTICLE 5(2)(B) AND (C) OF THE PROTOCOL – DESIGNATIONS RECORDED IN 2014 IN WHICH SUCH DECLARATIONS WERE RENDERED INOPERATIVE**

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

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

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

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

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

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

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

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

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

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

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

### **PART III: REVIEW OF THE NON-APPLICATION OF DECLARATIONS MADE UNDER ARTICLE 8(7) OF THE PROTOCOL – NEW AND RENEWED DESIGNATIONS RECORDED IN 2014 IN WHICH A DECLARATION UNDER ARTICLE 8(7) OF THE PROTOCOL WAS RENDERED INOPERATIVE**

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

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

<sup>3</sup> Benelux is deemed as a single country for the declaration under Article 8(7) of the Protocol.

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

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

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

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

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



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

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

2014	Designated Office											Grand Total
Office of Origin	RU	DE	AT	FR	ES	RS	PT	PL	HU	CZ	Others	
DE	3,563		3,078	2,401	1,897	1,628	1,376	1,966	1,520	1,759	18,050	37,238
FR	2,691	2,669	1,819		2,575	1,201	2,017	1,232	1,256	1,182	15,708	32,350
CH	1,951	2,089	1,853	1,838	1,205	955	865	691	781	774	11,964	24,966
IT	2,341	1,248	1,152	1,359	1,073	1,090	936	622	760	687	12,190	23,458
BX	1,371	1,306	869	1,455	958	590	718	526	572	529	7,102	15,996
CN	1,207	816	341	797	625	257	383	466	292	307	6,948	12,439
RU		461	221	343	305	226	186	346	233	282	4,880	7,483
AT	449	682		380	239	365	159	262	494	422	3,481	6,933
ES	564	365	265	426		210	358	154	179	165	3,003	5,689
CZ	388	257	264	176	126	167	98	348	295		1,962	4,081
Others	2,037	903	609	796	573	1,017	385	861	690	870	10,681	19,422
Grand Total	16,562	10,796	10,471	9,971	9,576	7,706	7,481	7,474	7,072	6,977	95,969	190,055

#### **PART IV: DISTRIBUTION OF FEES, COLLECTED IN 2012, 2013 AND 2014, RESULTING FROM THE APPLICATION OF PARAGRAPH (1)(B) OF ARTICLE 9SEXIES OF THE PROTOCOL**

34. Paragraph (1)(b) of Article 9sexies, 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.

35. 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.

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

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

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

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

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

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

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

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

**PART V: SIMULATION OF THE REPEAL OF PARAGRAPH (1)(B) OF ARTICLE 9SEXIES OF THE PROTOCOL – NOTIONAL AMOUNTS OF INDIVIDUAL FEES PAYABLE FOR 2012, 2013 AND 2014**

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

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

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

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

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

41. *The Working Group is invited to:*

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

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

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

[End of document]

<sup>4</sup> Only the first part of a two-part fee has been taken into account (Cuba has also made a two-part fees declaration under Rule 34(3)(a) of the Common Regulations).

<sup>5</sup> The simulation takes into account that the declaration concerning individual fees made by Kenya entered into force on March 12, 2014.

<sup>6</sup> The simulation takes into account that from June 29, 2013, in the relations between the Syrian Arab Republic and countries party both to the Madrid Agreement and the Madrid Protocol, the provisions of Article 9sexies(1)(b) of the Protocol ceased to apply.