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**COMMITTEE OF EXPERTS
ON
THE DEPOSIT OF MICROORGANISMS
FOR THE PURPOSES OF PATENT PROCEDURE**

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DRAFT REGULATIONS

prepared by the International Bureau

DRAFT REGULATIONS UNDER THE TREATY ON THE INTERNATIONAL
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS
FOR THE PURPOSES OF PATENT PROCEDURE

List of Rules

Rule 1: Abbreviated Expressions

- 1.1 "Treaty"
- 1.2 "Article"
- 1.3 "Gazette"

Rule 2: Internationally Recognized Depository Authorities

- 2.1 Legal Status
- 2.2 Staff, Equipment and Facilities

Rule 3 (Alternative A): Granting of the Status of Internationally Recognized Depository Authority

- 3.1 Proposal
- 3.2 Processing of the Proposal
- 3.3 Extension of the List of Kinds of Microorganisms Accepted

(Alternative B): Acquisition of the Status of Internationally Recognized Depository Authority

- 3.1 Communication
- 3.2 Processing of the Communication
- 3.3 Extension of the List of Kinds of Microorganisms Accepted

Rule 4 (Alternative A): Withdrawal or Limitation of the Status of Internationally Recognized Depository Authority

- 4.1 Request
- 4.2 Processing of the Request

(Alternative B): Termination or Limitation of the Status of Internationally Recognized Depository Authority

- 4.1 Request
- 4.2 Processing of the Request

Rule 5 (Alternative A): Withdrawal or Limitation of the Guarantee

- 5.1 Communication
- 5.2 Effective Date of the Withdrawal or Limitation
- 5.3 Processing of the Communication

Rule 5 (Alternative B): Withdrawal or Limitation of the Guarantee

- 5.1 Communication
- 5.2 Effective Date of the Withdrawal or Limitation
- 5.3 Processing of the Communication

Rule 6: Defaults by the Internationally Recognized Depository Authority

- 6.1 Interruption or Discontinuance of Functions in Respect of Accepted Deposits
- 6.2 Refusal To Accept Certain Kinds of Microorganisms

Rule 7: Making the Original Deposit or New Deposit

- 7.1 Original Deposit
- 7.2 New Deposit

Rule 8: Receipt

- 8.1 Issuance of Receipt
- 8.2 Form; Language; Signature
- 8.3 Contents in the Case of the Original Deposit
- 8.4 Contents in the Case of the New Deposit

Rule 9: Later Indication or Amendment of the Scientific Designation and/or Taxonomic Description

- 9.1 Communication
- 9.2 Attestation

Rule 10: Storage of Cultures

- 10.1 Duration of the Storage
- 10.2 Restitution or Destruction of the Deposited Culture
- 10.3 Secrecy

Rule 11: Viability Test and Viability Certificate

- 11.1 Obligation To Test
- 11.2 Viability Certificate

Rule 12: Release of Samples

- 12.1 Release to Interested Industrial Property Offices
- 12.2 Release to or with the Authorization of the Depositor
- 12.3 Release to Parties Legally Entitled to Samples
- 12.4 Common Rules

Rule 13: Fees

- 13.1 Kinds and Amounts
- 13.2 Change in the Amounts

Rule 14: Gazette

- 14.1 Frequency of Issue and Contents; Languages
- 14.2 Price

Rule 15: Expenses of Delegations

- 15.1 Coverage of Expenses

Rule 16: Absence of Quorum in the Assembly

- 16.1 Voting by Correspondence

DRAFT REGULATIONS UNDER THE TREATY ON THE INTERNATIONAL
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS
FOR THE PURPOSES OF PATENT PROCEDURE

Rule 1

ABBREVIATED EXPRESSIONS

1.1 "Treaty"

In these Regulations, the word "Treaty" means the Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.

1.2 "Article"

In these Regulations, the word "Article" refers to the specified Article of the Treaty.

1.3 "Gazette"

In these Regulations, "Gazette" means the Gazette referred to in Rule 14.

Rule 2

INTERNATIONALLY RECOGNIZED DEPOSITARY AUTHORITIES

2.1 Legal Status

Any internationally recognized depositary authority may be a government agency or a private entity.

2.2 Staff, Equipment and Facilities

The requirements referred to in Article 6(1)(ii) shall include in particular the following:

(i) the person responsible for the scientific operations of any internationally recognized depositary authority shall have the scientific qualifications, including experience in microbiology, which are necessary for directing and supervising such operations;

(ii) the staff, the equipment and the facilities of any internationally recognized depositary authority must be such that they enable that authority adequately to perform its scientific and administrative tasks under the Treaty and these Regulations [and according to the guidelines referred to in Article 8(2)(a)(ii)]¹; they must, in particular, enable the said authority to store the deposited cultures of microorganisms in a manner which ensures that they are kept viable and uncontaminated;

(iii) any internationally recognized depositary authority must, for the storage of microorganisms, have at least two places which are sufficiently distant one from the other to minimize the risk of losing stored microorganisms.

¹ The words within square brackets apply if Article 8 is maintained.

Rule 3

Alternative A*

GRANTING OF THE STATUS OF
INTERNATIONALLY RECOGNIZED
DEPOSITARY AUTHORITY

3.1 Proposal

(a) The proposal referred to in Article 7(1)(a) shall be in English or French. It shall be signed [by the Minister for Foreign Affairs of the Contracting State]¹ [, where it is made by a State, by the Minister for Foreign Affairs of that State, and, where it is made by an intergovernmental organization, by the person entitled to represent that organization]².

(b) The proposal shall contain:

(i) an indication of the name and address of the depositary institution to which it is proposed to grant the status of internationally recognized depositary authority,

(ii) detailed information on all facts relevant in appreciating the said institution's capacity to comply with the requirements referred to in Article 6(1)(ii) to (vii), including information on its legal status, scientific standing, staff, equipment, facilities, sources of revenue and methods of management,

* This Alternative applies if Alternative A of Article 7 is adopted.

¹ These words apply if only States may become party to the Treaty.

² These words apply if both States and intergovernmental organizations may become party to the Treaty.

Alternative B*

ACQUISITION OF THE STATUS OF
INTERNATIONALLY RECOGNIZED
DEPOSITARY AUTHORITY

3.1 Communication

(a) The communication referred to in Article 7(1)(a) shall be in English or French. It shall be signed [by the Minister for Foreign Affairs of the Contracting State]¹ [, where it is made by a State, by the Minister for Foreign Affairs of that State, and, where it is made by an intergovernmental organization, by the person entitled to represent that organization]².

(b) The communication shall contain:

(i) an indication of the name and address of the depositary institution to which the communication relates,

(ii) detailed information on all facts relevant in appreciating the said institution's capacity to comply with the requirements referred to in Article 6(1)(ii) to (vii), including information on its legal status, scientific standing, staff, equipment, facilities, sources of revenue and methods of management,

* This Alternative applies if Alternative B of Article 7 is adopted.

[Rule 3.1(b) (Alternative A), continued] . [Rule 3.1(b) (Alternative B), continued]

(iii) where the guarantee referred to in Article 6(1)(iv) relates to certain kinds of microorganisms only, a specification of the kinds of microorganisms in respect of which the depositary institution, in its capacity of internationally recognized depositary authority, will perform the tasks it is obliged to perform under the Treaty and these Regulations,

(iv) an indication of the amount of any fees that the said institution will initially charge for storage, viability tests and release of samples,

(v) an indication of the date from which that institution would be ready to function as an internationally recognized depositary authority.

3.2 Processing of the Proposal

(a) The proposal shall be sent to the Director General.

(b) If the proposal complies with Article 7(1)(a) and Rule 3.1, it shall be promptly notified by the Director General to all Contracting [States]¹ [Parties]².

[(b-bis) The Committee of Experts shall not proceed with the examination referred to in Article 8(2)(a)(i) before the expiration of a period of six months from the date of the said notification. The Director General shall promptly notify all Contracting [States]¹ [Parties]² of the report of the Committee of Experts on the results of the examination.]³

(iii) where the guarantee referred to in Article 6(1)(iv) relates to certain kinds of microorganisms only, a specification of the kinds of microorganisms in respect of which the depositary institution, in its capacity of internationally recognized depositary authority, will perform the tasks it is obliged to perform under the Treaty and these Regulations,

(iv) an indication of the amount of any fees that the said institution will initially charge for storage, viability tests and release of samples,

(v) an indication of the date from which that institution will function as an internationally recognized depositary authority.

3.2 Processing of the Communication

If the communication complies with Rule 3.1, it shall be promptly notified by the Director General to all Contracting [States]¹ [Parties]² and shall be promptly published in the Gazette.

¹ This word applies if only States may become party to the Treaty.

² This word applies if both States and intergovernmental organizations may become party to the Treaty.

³ The words within square brackets apply if Article 8 is maintained.

[Rule 3.2 (Alternative A), continued]

(c) The Assembly shall consider the proposal after the expiration of a period of six months from the notification [of the proposal]¹ [of the report referred to in paragraph (b-bis)]².

(d) If the Assembly decides to grant the status of internationally recognized depositary authority, the said decision shall specify the date on which the internationally recognized depositary authority will commence its functions in the capacity of such an authority.

(e) The Director General shall promptly notify all Contracting [States]³ [Parties]⁴ of the decision of the Assembly; the decision shall be promptly published in the Gazette.

3.3 Extension of the List of Kinds of Microorganisms Accepted

The Contracting [State]³ [Party]⁴ having made the proposal referred to in Article 7(1)(a) may, at any time later, notify the Director General that its guarantee is extended to specified kinds of microorganisms to which, so far, the guarantee has not extended. In such a case, and as far as the additional kinds of microorganisms are concerned, Article 7(1) and Rules 3.1 and 3.2 shall apply, mutatis mutandis.

[Rule 3 (Alternative B), continued]

3.3 Extension of the List of Kinds of Microorganisms Accepted

The Contracting [State]³ [Party]⁴ having made the communication referred to in Article 7(1)(a) may, at any time later, notify the Director General that its guarantee is extended to specified kinds of microorganisms to which, so far, the guarantee has not extended. In such a case, and as far as the additional kinds of microorganisms are concerned, Article 7(1) and Rules 3.1 and 3.2 shall apply, mutatis mutandis.

¹ The words within square brackets apply if Article 8 is not maintained.

² The words within square brackets apply if Article 8 is maintained.

³ This word applies if only States may become party to the Treaty.

⁴ This word applies if both States and intergovernmental organizations may become party to the Treaty.

Rule 4

Alternative A*

WITHDRAWAL OR LIMITATION OF THE
STATUS OF INTERNATIONALLY
RECOGNIZED DEPOSITARY AUTHORITY

4.1 Request

(a) The request referred to in Article 7(2)(a) shall be in English or French. It shall be signed as provided in Rule 3.1(a).

(b) The request shall contain:

(i) an indication of the name and address of the internationally recognized depositary authority concerned,

(ii) where the request concerns certain kinds of microorganisms only, an indication of the kinds of microorganisms to which it relates,

(iii) a detailed indication of the facts on which the request is based.

4.2 Processing of the Request

(a) Subject to paragraph (b), the procedure provided for in Rule 3.2 shall apply, mutatis mutandis, to the request.

Alternative B*

TERMINATION OR LIMITATION OF THE
STATUS OF INTERNATIONALLY
RECOGNIZED DEPOSITARY AUTHORITY

4.1 Request

(a) The request referred to in Article 7(2)(a) shall be in English or French. It shall be signed as provided in Rule 3.1(a).

(b) The request shall contain:

(i) an indication of the name and address of the internationally recognized depositary authority concerned,

(ii) where the request concerns certain kinds of microorganisms only, an indication of the kinds of microorganisms to which it relates,

(iii) a detailed indication of the facts on which the request is based.

4.2 Processing of the Request

(a) Any request made under Article 7(2)(a) shall be sent to the Director General.

(b) If the request complies with Rule 4.1, it shall be notified by the Director General to all Contracting [States]¹ [Parties]².

* This Alternative applies if Alternative A of Article 7 is adopted.

* This Alternative applies if Alternative B of Article 7 is adopted.

¹ This word applies if only States may become party to the Treaty.

² This word applies if both States and intergovernmental organizations may become party to the Treaty.

[Rule 4.2 (Alternative A), continued]

(b) Where, in the opinion of the [Committee of Experts or the]³ Assembly, respect of the time limit [limits]³ provided for in Rule 3.2[(b-bis) or]³ (c) could endanger the interests of actual or potential depositors, the [said Committee and the]³ Assembly may shorten [them]³ [it]⁴.

(c) If the Assembly decides to withdraw, either entirely or in respect only of certain kinds of microorganisms, the status of internationally recognized depositary authority, the said decision shall become effective six months after the date on which it was made. However, the Assembly may shorten that time limit where, in its opinion, respect of the said time limit could endanger the interests of actual or potential depositors.

[Rule 4.2 (Alternative B), continued]

[(b-bis) The Committee of Experts shall not proceed with the examination referred to in Article 8(2)(a)(i) before the expiration of six months from the date of the said notification. The Director General shall promptly notify all Contracting [States]¹ [Parties]² of the report of the Committee of Experts on the results of the examination.]³

(c) The Assembly shall consider the request after the expiration of a period of six months from the notification [of the request]⁴ [of the report referred to in paragraph (b-bis)]³.

(d) Where, in the opinion of the [Committee of Experts or the]³ Assembly, respect of the time limit [limits]³ provided for in Rule 4.2[(b-bis) or]³ (c) could endanger the interests of actual or potential depositors, the [said Committee and the]³ Assembly may shorten [them]³ [it]⁴.

(e) If the Assembly decides to terminate, either entirely or in respect only of certain kinds of microorganisms, the status of internationally recognized depositary authority, the said decision shall become effective six months after the date on which it was made. However, the Assembly may shorten that time limit where, in its opinion, respect of the said time limit could endanger the interests of actual or potential depositors.

¹ This word applies if only States may become party to the Treaty.

² This word applies if both States and intergovernmental organizations may become party to the Treaty.

³ The words within square brackets apply if Article 8 is maintained.

⁴ The words within square brackets apply if Article 8 is not maintained.

Rule 5

Alternative A*

WITHDRAWAL OR LIMITATION OF
THE GUARANTEE

5.1 Communication

(a) The communication referred to in Article 7(3)(a) shall be in English or French. It shall be signed as provided in Rule 3.1(a).

(b) The communication shall contain:

(i) an indication of the name and address of the internationally recognized depositary authority concerned,

(ii) where the withdrawal relates only to certain kinds of microorganisms, an indication of the kinds of microorganisms to which it relates,

(iii) where the Contracting [State]¹ [Party]² making the communication desires that the effects provided for in Article 7(3)(b) take place at a date later than at the expiration of a period of six months from the date of the communication, an indication of that date.

5.2 Effective Date of the Withdrawal or Limitation

Where Rule 5.1(b)(iii) applies, the effects provided for in Article 7(3)(b) shall take place on the date indicated under that Rule in the communication; otherwise, they shall take place at the expiration of six months from the date of the communication.

* This Alternative applies if Alternative A of Article 7 is adopted.

¹ This word applies if only States may become party to the Treaty.

² This word applies if both States and intergovernmental organizations may become party to the Treaty.

Alternative B*

WITHDRAWAL OR LIMITATION OF
THE GUARANTEE

5.1 Communication

(a) The communication referred to in Article 7(3)(a) shall be in English or French. It shall be signed as provided in Rule 3.1(a).

(b) The communication shall contain:

(i) an indication of the name and address of the internationally recognized depositary authority concerned,

(ii) where the withdrawal relates only to certain kinds of microorganisms, an indication of the kinds of microorganisms to which it relates,

(iii) where the Contracting [State]¹ [Party]² making the communication desires that the effects provided for in Article 7(3)(b) take place at a date later than at the expiration of a period of six months from the date of the communication, an indication of that date.

5.2 Effective Date of the Withdrawal or Limitation

Where Rule 5.1(b)(iii) applies, the effects provided for in Article 7(3)(b) shall take place on the date indicated under that Rule in the communication; otherwise, they shall take place at the expiration of six months from the date of the communication.

* This Alternative applies if Alternative B of Article 7 is adopted.

[Rule 5 (Alternative A), continued]

5.3 Processing of the Communication

The Director General shall promptly notify all Contracting [States]¹ [Parties]² of any communication received under Article 7(3) and of its effective date under Rule 5.2. A corresponding notice shall be promptly published in the Gazette.

[Rule 5 (Alternative B), continued]

5.3 Processing of the Communication

The Director General shall promptly notify all Contracting [States]¹ [Parties]² of any communication received under Article 7(3) and of its effective date under Rule 5.2. A corresponding notice shall be promptly published in the Gazette.

¹ This word applies if only States may become party to the Treaty.

² This word applies if both States and intergovernmental organizations may become party to the Treaty.

Rule 6

DEFAULTS BY THE INTERNATIONALLY RECOGNIZED
DEPOSITARY AUTHORITY

6.1 Interruption or Discontinuance of Functions in Respect of Accepted Deposits

(a) If any internationally recognized depositary authority interrupts, other than incidentally, or discontinues the performance of any of the tasks it should perform under the Treaty and these Regulations in relation to any cultures of microorganisms deposited with it, the Contracting [State]¹ [Party]² which, in respect of that authority, has guaranteed the compliance with the requirements provided for in Article 6, shall

(i) ensure that all such cultures of microorganisms are transferred promptly and in perfect condition, in particular without affecting their viability and without contamination, from the said ("the defaulting") authority to another ("the substitute") internationally recognized depositary authority,

(ii) ensure that all mail or other communications addressed to the defaulting authority in respect of the said cultures of microorganisms are promptly transferred to the substitute authority,

(iii) ensure that, in respect of the said cultures of microorganisms, the substitute authority will perform all the tasks that internationally recognized depositary authorities are obliged, under the Treaty and these Regulations, to perform,

(iv) promptly notify the International Bureau of the fact and the extent of the interruption or discontinuance in question and of the measures which have been taken by the said Contracting [State]¹ [Party]² under (i) to (iii), above.

(b) The International Bureau shall promptly notify the other Contracting [States]¹ [Parties]² of the notification received under paragraph (a) (iv) and shall promptly publish the same in the Gazette.

6.2 Refusal To Accept Certain Kinds of Microorganisms

(a) If any internationally recognized depositary authority refuses to accept for deposit any of the kinds of microorganisms to which the guarantee referred to in Article 6(1) (iv) applies, the Contracting [State]¹ [Party]² which, in respect of that authority, has made the declaration referred to in Article 7(1) shall promptly notify the International Bureau of the relevant facts.

(b) The International Bureau shall promptly notify the other Contracting [States]¹ [Parties]² of the notification received under paragraph (a) and shall promptly publish the same in the Gazette.³

¹ This word applies if only States may become party to the Treaty.

² This word applies if both States and intergovernmental organizations may become party to the Treaty.

³ It goes without saying that such facts should lead the guaranteeing Contracting [State] [Party] to proceed as provided in Article 7(3) (b). In any case, such facts could lead, under Article 7(2), to the withdrawal or limitation of the status of internationally recognized depositary authority.

Rule 7

MAKING THE ORIGINAL DEPOSIT OR NEW DEPOSIT

7.1 Original Deposit

(a) The culture of microorganism transmitted by the depositor to the internationally recognized depositary authority shall, except where Rule 7.2 applies, be accompanied by a written statement, signed by the depositor, containing:

(i) the name and address of the depositor,

(ii) a description of the culture conditions of the deposited culture of microorganism, in particular of the medium and the conditions in which the culture grows,

(iii) an identification reference (number, symbols, etc.) given by the depositor to the deposited culture of microorganism [or, where the internationally recognized depositary authority has given the depositor an accession number of its own in advance of the deposit, such accession number].

(b) The written statement referred to in paragraph (a) may contain the scientific designation and/or taxonomic description of the strain or strains of the deposited culture of microorganism.

(c) The payment of any fee under Rule 13.1(a)(i) shall be made before or at the time of the transmittal referred to in paragraph (a).

7.2 New Deposit

(a) In the case of a new deposit made under Article 3(2), the culture of microorganism transmitted by the depositor to the internationally recognized depositary authority shall be accompanied by a copy of the receipt of the original deposit and by a written statement, signed by the depositor, containing:

(i) the indications referred to in Rule 7.1(a)(i) to (iii),

(ii) a declaration stating the reason relevant under Article 3(2)(a) or (b) for making the new deposit and indicating the date relevant under Article 3(2)(c),

(iii) any scientific designation and/or taxonomic description indicated in connection with the original deposit as existing on the date relevant under Article 3(2)(c).

(b) The payment of any fee under Rule 13.1(a)(i) shall be made before or at the time of the transmittal referred to in paragraph (a).

Rule 8

RECEIPT

8.1 Issuance of Receipt

The internationally recognized depositary authority shall issue to the depositor, in respect of each deposit of microorganism effected with it, a receipt in attestation of the fact that it has received and accepted such deposit.

8.2 Form; Language; Signature

(a) Any receipt referred to in Rule 8.1 shall be established on a form called an "international form," a model of which shall be established by [the Director General] [the Committee of Experts]¹ [the Assembly].

(b) Any text matter in the receipt shall be in English or French. It may be in both English and French. Any text matter appearing in the receipt in English or French may also appear therein in any other language.

(c) The receipt shall be signed by the person or persons having the power to represent the internationally recognized depositary authority or by any other official of that authority duly authorized by the said person or persons.

8.3 Contents in the Case of the Original Deposit

Any receipt referred to in Rule 8.1 shall, except where Rule 8.4 applies, contain at least the following indications:

(i) the name and address of the internationally recognized depositary authority,

(ii) the name and address of the depositor,

(iii) the date of the deposit of the microorganism,

(iv) the identification reference given by the depositor to the deposited culture of microorganism [unless the internationally recognized depositary authority has given the depositor an accession number of its own in advance and such accession number was indicated in the written statement referred to in Rule 7.1(a)],

(v) the accession number of the internationally recognized depositary authority given by that authority to the deposited culture of microorganism,

(vi) where the written statement referred to in Rule 7.1(a) contains the scientific designation and/or taxonomic description of the strain or strains of the deposited culture of microorganism, such designation and/or description.

¹ These words might be considered if Article 8 is maintained.

[Rule 8, continued]

8.4 Contents in the Case of the New Deposit

Any receipt referred to in Rule 8.1 and issued in the case of a new deposit effected under Article 3(2) shall be accompanied by a copy of the receipt of the original deposit and shall at least contain:

- (i) the indications referred to in Rule 8.3(i) to (iv),
- (ii) an indication of the relevant reason and the relevant date as stated by the depositor in the declaration referred to in Rule 7.2(a) (ii),
- (iii) where Rule 7.2(a) (iii) applies, the scientific description and/or taxonomic description.

Rule 9

LATER INDICATION OR AMENDMENT OF THE
SCIENTIFIC DESIGNATION AND/OR TAXONOMIC DESCRIPTION

9.1 Communication

(a) Subject to Rule 7.2(a)(iii), where, in connection with the deposit of a microorganism, the scientific designation and/or taxonomic description of the strain or strains of the deposited culture were/was not indicated, the depositor may later indicate or, where they were/it was indicated, may amend such designation and/or description.

(b) Any such later indication or amendment shall be made in a written communication, signed by the depositor, addressed to the internationally recognized depositary authority and containing:

- (i) the name and address of the depositor,
- (ii) the relevant accession number of the said authority,
- (iii) the scientific designation and/or taxonomic description of the strain or strains of the deposited culture of microorganism,
- (iv) in the case of an amendment, the last preceding scientific designation and/or taxonomic description.

9.2 Attestation

The internationally recognized depositary authority shall, on the request of the depositor having made the communication referred to in Rule 9.1, and without charging a fee, deliver to him an attestation showing the data referred to in Rule 9.1(b)(i) to (iv) and the date of receipt of such communication.

Rule 10

STORAGE OF CULTURES

10.1 Duration of the Storage

Subject to Rule 10.2, any culture of microorganism deposited with it shall be stored by the internationally recognized depositary authority, with all the care necessary to keep it viable and uncontaminated, for a period of at least [five] years after the most recent request for the release of a sample of the deposited culture was received by the said authority and, in any case, for a period of at least [30] years after the date of the deposit.

10.2 Restitution or Destruction of the Deposited Culture

As long as, in the course of the patent procedure, no industrial property office has published the patent for the invention to which the deposited culture of microorganism relates, or no such office has published the application for such patent, the depositor may request the internationally recognized depositary authority to reconstitute to him the deposited culture or to destroy it, and the said authority shall promptly comply with the request. [The fact of such restitution or destruction of the deposited culture shall, together with the relevant indications, be promptly notified by the said authority to the International Bureau, and that Bureau shall notify all Contracting [States]¹ [Parties]² of the said notification and shall publish it in the Gazette.]

10.3 Secrecy

As long as no publication by any industrial property office has occurred as indicated in Rule 10.2, the fact that the deposit has been made shall be kept secret by the internationally recognized depositary authority, and such authority shall not give any information concerning the deposit to anybody, except with the written authorization of the depositor.

¹ This word applies if only States may become party to the Treaty.

² This word applies if both States and intergovernmental organizations may become party to the Treaty.

Rule 11

VIABILITY TEST AND VIABILITY CERTIFICATE

11.1 Obligation To Test

The internationally recognized depositary authority shall test the viability of each culture of microorganism deposited with it

- (i) promptly after the deposit,
- (ii) at regular intervals, each interval not exceeding [five] years,
- (iii) at any time, on the request of the depositor.

11.2 Viability Certificate

(a) The internationally recognized depositary authority shall, in respect of the deposited culture of microorganism, issue a viability certificate

- (i) to the depositor, promptly after the deposit,
- (ii) to the depositor, on his request, at any time after the deposit,
- (iii) to any industrial property office, other authority, natural person or legal entity, other than the depositor, to whom or to which a sample of the said culture was released in conformity with Rule 12.3, on his or its request, together with or at any time after such release.

(b) In the cases of paragraph (a)(ii) and (iii), the viability certificate shall refer to the most recent viability test.

(c) As to form, language and signature, Rule 8.2 shall apply, mutatis mutan-
dis, to viability certificates.

(d) The viability certificate shall contain:

- (i) the name and address of the internationally recognized depositary authority issuing it,
- (ii) the name and address of the depositor,
- (iii) the date of the deposit of the microorganism,
- (iv) the accession number of the said authority,
- (v) the date of the test to which it refers and an indication of the results of that test,
- (vi) the latest scientific designation and/or taxonomic description, if any.

(e) The issuance of the viability certificate referred to in paragraph (a)(i) shall be free of charge. Any fee payable under Rule 13.1(a)(ii) in respect of any other viability certificate shall be chargeable to the party requesting the certificate and shall be paid before or at the time of making the request.

Rule 12

RELEASE OF SAMPLES

12.1 Release to Interested Industrial Property Offices

(a) Any internationally recognized depositary authority shall release a sample of any deposited culture to the industrial property office of any Contracting [State]¹ [Party]², upon the request of the latter, provided that the request shall be accompanied by a declaration to the effect that

(i) the sample is needed for the purposes of patent procedure before that office,

(ii) the depositor has filed an application with that office for the grant of a patent for an invention involving the use of the microorganism which is the subject of the deposit,

(iii) such application is pending before the said office or has led to the grant of a patent,

(iv) the said office will use the sample and any information accompanying or resulting from it only for the purposes of patent procedure before it.

(b) The application referred to in paragraph (a) (ii) and (iii) shall be identified by the name of the applicant, the date of its filing, and its number; the patent referred to in paragraph (a) (iii) shall be identified by the name of its owner, the date of the grant, and its number.

12.2 Release to or with the Authorization of the Depositor

Any internationally recognized depositary authority shall release a sample of any deposited culture

(i) to the depositor, on his request,

(ii) to any authority, natural person or legal entity (hereinafter referred to as "the authorized party"), on the request of such party, provided that the request is accompanied by a declaration signed by the depositor authorizing the requested release.

12.3 Release to Parties Legally Entitled to Samples

Any internationally recognized depositary authority shall release a sample of any deposited culture to any authority, natural person or legal entity (hereinafter referred to as "the certified party"), on the request of such party, provided that the request is accompanied by a declaration signed by the industrial

¹ This word applies if only States may become party to the Treaty.

² This word applies if both States and intergovernmental organizations may become party to the Treaty.

[Rule 12.3, continued]

property office of a Contracting [State]¹ [Party]² certifying

(i) that the depositor has filed an application with that office for the grant of a patent for an invention involving the use of the microorganism which is the subject of the deposit,

(ii) that the said application or the patent granted on the application has been published by that office,

(iii) that the certified party has the right, under the law governing patent procedure before that office, to receive a sample of the deposited culture,

(iv) where the said law makes the said right dependent on the fulfillment of certain conditions, that that office is satisfied that such conditions are, in fact, fulfilled.

12.4 Common Rules

(a) Any request and any declaration made under Rules 12.1, 12.2 or 12.3 shall be established at least in English or in French, shall be in writing, shall be signed, shall be dated and shall contain all the indications necessary for identifying the deposit, the depositor, the industrial property office making the request or the declaration, as well as the authorized party or the certified party.

(b) Notwithstanding paragraph (a), any internationally recognized depositary authority may agree with any industrial property office that the request and the declaration referred to in Rule 12.1(a) shall or may be in a given language other than English or French.

(c) The internationally recognized depositary authority having effected the release of the sample shall promptly notify the depositor in writing of that fact, as well as of the date on which the release was effected, and the name and address of the industrial property office and of the authorized party or of the certified party, as the case may be, to which the sample was released.

(d) The release of samples referred to in Rule 12.1 shall be free of charge. Where the release of samples is made under Rule 12.2 or 12.3, any fee payable under Rule 13.1(a)(iii) shall be chargeable to the depositor or to the authorized party or the certified party, as the case may be, and shall be paid before or at the time of making the request for the release of samples.

¹ This word applies if only States may become party to the Treaty.

² This word applies if both States and intergovernmental organizations may become party to the Treaty.

Rule 13

FEES

13.1 Kinds and Amounts

(a) Any internationally recognized depositary authority may charge a fee

- (i) for storage,
- (ii) subject to Rule 11.2(e), for the issuance of viability certificates,
- (iii) for the release of samples.

(b) The fee for storage shall be for the whole duration of the storage of the deposited culture of the microorganism as provided for in Rule 10.1.

(c) The amount of any fee shall not vary on account of the nationality or residence of the depositor or of the person requesting the issuance of a viability certificate or the release of samples.

13.2 Change in the Amounts

(a) Any change in the amount of the fees charged by any internationally recognized depositary authority shall be notified to the International Bureau by the Contracting [State]¹ [Party]² which, under Article 7(1)(a), made the declaration in respect of that authority. The notification may, subject to paragraph (c), contain an indication of the date from which the new fees will apply.

(b) The International Bureau shall promptly notify all Contracting [States]¹ [Parties]² of any notification received under paragraph (a) and of its effective date under paragraph (c). It shall promptly publish the said notification and date in the Gazette.

(c) Any new fees shall apply as of the date indicated under paragraph (a), provided that, where the change consists of an increase in the amounts of the fees or where no date is so indicated, the new fees shall apply as from the thirtieth day following the publication of the change in the Gazette.

¹ This word applies if only States may become party to the Treaty.

² This word applies if both States and intergovernmental organizations may become party to the Treaty.

Rule 14

GAZETTE

14.1 Frequency of Issue and Contents; Languages

(a) The International Bureau shall publish a Gazette.

(b) Issues of the Gazette shall be published at least once every six months.

(c) Each issue shall contain an up-to-date list of the internationally recognized depositary authorities, indicating in respect of each such authority the kinds of microorganisms that may be deposited with it and the amount of the fees charged by it.

(d) Full information on the following facts shall be published in the Gazette once, in the first issue published after the occurrence of the fact:

(i) [granting, withdrawal]¹ [acquisition, termination]² loss and limitation of the status of internationally recognized depositary authority,

(ii) interruption or discontinuance of the functions of internationally recognized depositary authorities, refusal to accept certain kinds of microorganisms, and the measures taken in connection with such interruption, discontinuance and refusal,

(iii) changes in the fees charged by the internationally recognized depositary authorities,

[(iv) restitution and destruction of deposited cultures].

(e) The Gazette shall be in English and French.

14.2 Price

The subscription price and the price of any individual issue of the Gazette shall be fixed by the Director General.

¹ These words apply if Alternative A of Article 7 is adopted.

² These words apply if Alternative B of Article 7 is adopted.

Rule 15

EXPENSES OF DELEGATIONS

15.1 Coverage of Expenses

The expenses of each delegation participating in any session of the Assembly and in any committee, working group or other meeting dealing with matters of concern to the Union shall be borne by the Government or organization which has appointed it.

Rule 16

ABSENCE OF QUORUM IN THE ASSEMBLY

16.1 Voting by Correspondence

(a) In the case provided for in Article 9(5)(b), the International Bureau shall communicate any decision of the Assembly (other than decisions relating to the Assembly's own procedure) to the Contracting [States]¹ [Parties]² which were not represented when the decision was made and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication.

(b) If, at the expiration of the said period, the number of Contracting [States]¹ [Parties]² having thus expressed their vote or abstention attains the number of Contracting [States]¹ [Parties]² which was lacking for attaining the quorum when the decision was made, that decision shall take effect provided that at the same time the required majority still obtains.

[End of document]

¹ This word applies if only States may become party to the Treaty.

² This word applies if both States and intergovernmental organizations may become party to the Treaty.