

## **Patent Cooperation Treaty (PCT) Committee for Technical Cooperation**

**Thirtieth Session  
Geneva, May 8 to 12, 2017**

**MODEL AGREEMENT BETWEEN AN OFFICE AND THE INTERNATIONAL BUREAU  
IN RELATION TO ITS FUNCTIONING AS AN INTERNATIONAL SEARCHING AND  
PRELIMINARY EXAMINING AUTHORITY**

*Document prepared by the International Bureau*

### **SUMMARY**

1. The Committee is invited to comment on the draft model agreement in the Annex to this document, which will be used as the basis for preparing the individual agreements under Articles 16(3) and 32(3) that the International Bureau will have with each Office or organization that will act as an International Searching and Preliminary Examining Authority with effect from January 1, 2018.

### **DISCUSSION OF THE MODEL AGREEMENT AT THE TWENTY-FOURTH SESSION OF THE MEETING OF INTERNATIONAL AUTHORITIES**

2. The Meeting of International Authorities (PCT/MIA), at its twenty-fourth session, held in Reykjavík from February 8 to 10, 2017, discussed a draft model agreement to be used as the basis of the individual agreements under Articles 16(3) and 32(3) between an Office and the International Bureau in relation to the functioning of the Office as an International Searching and Preliminary Examining Authority from January 1, 2018 (see paragraphs 11 to 17 and the Annex to document PCT/MIA/24/2). The draft in document PCT/MIA/24/2 took into account comments made to an earlier draft model agreement in the Annex to Circular C. PCT 1479, dated June 24, 2016, which was sent to International Authorities to commence the process for extension of their appointments.

3. The draft model agreement in the Annex to document PCT/MIA/24/2 is reproduced in the Annex to this document. Differences between the model and a “typical” current agreement are set out using underline and strikeout, noting that a number of further minor variations exist between current agreements and that it will remain necessary to keep certain variations, particularly with regard to the parties eligible under the relevant national laws to sign and modify the agreement. The naming of Annexes reflects the letters used in the current agreements, using *Abis* and *Cbis* to indicate the order of items which fall between existing Annexes; the final version would be updated to be Annexes A, B, C, D, etc. The highlighting to show the modifications made between the draft in Circular C. PCT 1479 and the Annex to document PCT/MIA/24/2 has been removed.

4. Discussions of the draft model agreement at the twenty-fourth session of the Meeting of International Authorities are set out in paragraphs 30 and 31 of the Summary by the Chair of the session, document PCT/MIA/24/15, as follows:

“30. Authorities agreed that it was desirable for reasons of transparency to maintain as much consistency as possible between the main bodies of the agreements between the International Bureau and International Authorities and to set out differences as clearly, completely and consistently as possible in the Annexes. This included clear statements of, or references to agreements on limitations of scope or number of international applications for which an Authority is competent. The draft set out in the Annex was considered to be a good basis for a model agreement for all Authorities, noting that:

- (a) Authorities whose agreements were established in multiple languages might require a statement that each language was equally authentic;
- (b) some Authorities would require minor variations in the text for specific national reasons; and
- (c) it should be recognized that most text shown in the Annexes – especially, but not only that in square brackets – was intended as examples to guide drafting consistency. Omission or variation of texts within the annexes would be acceptable, provided that the result was consistent with the Authorities’ obligations under the Treaty (including Rules and Administrative Instructions). The model did not include all possibilities within the Annexes, such as concerning the basis on which the Authority decides the extent to which refunds should be given in relation to earlier searches in respect of which had been provided.

“31. The Meeting:

...

- (c) approved the model agreement set out in the Annex to document PCT/MIA/24/2 as the basis for bilateral discussions between the International Bureau and individual International Authorities, taking into account the issues set out in paragraph 30, above.”

#### **DISCUSSION BY THE COMMITTEE ON TECHNICAL COOPERATION**

5. The PCT Working Group, at its ninth session in May 2016, agreed on a timetable for the procedure for the extension of appointment of each existing International Authority wishing to seek an extension to its appointment (see paragraph 8 of document PCT/WG/9/14, and paragraph 72 of the Summary by the chair of the session, document PCT/WG/9/27). Paragraph (e) of the procedure sets out the role of the Committee in this process:

“(e) May/June 2017: thirtieth session of the PCT/CTC, to be held back-to-back with the tenth session of the PCT Working Group; consideration by the PCT/CTC of all requests for extension of appointments by existing International Authorities and of the draft model agreement, with a view to giving advice to the PCT Assembly.”

#### **NEXT STEPS**

6. Taking into account the comments expressed at the Meeting of the International Authorities and by the Committee, the International Bureau will bilaterally discuss the draft agreement with individual International Authorities in order to prepare separate texts of each agreement. These texts will then be submitted for approval by the PCT Assembly at the same time as the decision is taken on the extension of the appointment of existing International Authorities.

*7. The Committee is invited to comment on the revised draft model Agreement set out in the Annex to document PCT/CTC/30/25.*

[Annex follows]

DRAFT MODEL AGREEMENT BETWEEN AN INTERNATIONAL AUTHORITY  
AND THE INTERNATIONAL BUREAU<sup>1</sup>

Agreement

between the PARTY  
and the International Bureau of the World Intellectual Property Organization

in relation to the functioning of the OFFICE  
as an International Searching Authority  
and International Preliminary Examining Authority  
under the Patent Cooperation Treaty

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<sup>1</sup> Proposed additions and deletions compared to the contents of a typical current agreement are indicated, respectively, by underlining and striking through the text concerned.

*Preamble*

The PARTY and the International Bureau of the World Intellectual Property Organization,

*Considering* that the PCT Assembly, having heard the advice of the PCT Committee for Technical Cooperation, has appointed the OFFICE as an International Searching and Preliminary Examining Authority under the Patent Cooperation Treaty and approved this Agreement in accordance with Articles 16(3) and 32(3),

*Hereby agree as follows:*

Article 1  
Terms and Expressions

- (1) For the purposes of this Agreement:
- (a) "Treaty" means the Patent Cooperation Treaty;
  - (b) "Regulations" means the Regulations under the Treaty;
  - (c) "Administrative Instructions" means the Administrative Instructions under the Treaty;
  - (d) "Article" (except where a specific reference is made to an Article of this Agreement) means an Article of the Treaty;
  - (e) "Rule" means a Rule of the Regulations;
  - (f) "Contracting State" means a State party to the Treaty;
  - (g) "the Authority" means the OFFICE;
  - (h) "the International Bureau" means the International Bureau of the World Intellectual Property Organization.
- (2) All other terms and expressions used in this Agreement which are also used in the Treaty, the Regulations or the Administrative Instructions have, for the purposes of this Agreement, the same meaning as in the Treaty, the Regulations and the Administrative Instructions.

## Article 2 Basic Obligations

(1) The Authority shall carry out international search and international preliminary examination in accordance with, and perform such other functions of an International Searching Authority and International Preliminary Examining Authority as are provided under, the Treaty, the Regulations, the Administrative Instructions and this Agreement.

(2) In carrying out international search and international preliminary examination, the Authority shall apply and observe all the common rules of international search and of international preliminary examination and, in particular, shall be guided by the PCT International Search and Preliminary Examination Guidelines.

(3) The Authority shall maintain a quality management system in compliance with the requirements set out in the PCT International Search and Preliminary Examination Guidelines.

(4) The Authority and the International Bureau shall, having regard to their respective functions under the Treaty, the Regulations, the Administrative Instructions and this Agreement, render, to the extent considered to be appropriate by both the Authority and the International Bureau, mutual assistance in the performance of their functions thereunder.

## Article 3 Competence of Authority

(1) The Authority shall act as International Searching Authority for any international application filed with the receiving Office of, or acting for, any Contracting State~~]~~ specified in Annex A to this Agreement~~]~~, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international search, is in the language or one of the languages specified in Annex A to this Agreement~~[, that such application is not an application of a kind specified in Annex A to this Agreement]~~ and, where applicable, that the Authority has been chosen by the applicant and that any other requirements regarding such application as specified in Annex A to this Agreement have been met.

(2) The Authority shall act as International Preliminary Examining Authority for any international application filed with the receiving Office of, or acting for, any Contracting State~~]~~ specified in Annex A to this Agreement~~]~~, provided that the receiving Office specifies the Authority for that purpose, that such application, or a translation thereof furnished for the purposes of international preliminary examination, is in the language or one of the languages specified in Annex A to this Agreement~~[, that such application is not an application of a kind specified in Annex A to this Agreement]~~ and, where applicable, that the Authority has been chosen by the applicant~~]~~ and that any other requirements regarding such application as specified in Annex A to this Agreement have been met~~]~~.

*[COMMENT 1: The reference in square brackets to “kinds of application” in Articles 3(1) and (2) only currently exists in the Agreement with the European Patent Office. As of January 1, 2015, the European Patent Office has removed the exclusion of certain applications in the area of business methods from the kinds of application for which it will not act as International Searching Authority and International Preliminary Examining Authority. It is therefore proposed to remove the reference to “kinds of application”. It is nevertheless proposed to include a provision “and that any other requirements regarding such application as specified in Annex A to this Agreement have been met” in paragraph (1), equivalent to that which appears in paragraph (2). While the main use in relation to international preliminary examination is to limit competence to international applications where the Office had also acted as ISA, this provision could, if necessary, also cover numerical or subject matter-related limitations such as those*

*which are applied by some Authorities. Where limitations of this type are imposed, it is highly desirable that they be set out in the Annexes of the Agreements for transparency.]*

*[COMMENT 2: At present, the words in square brackets “specified in Annex A to this Agreement” in the second and third line of Article 3(1) and Article 3(2), respectively, are not included in existing Agreements where an Authority is competent for the receiving Office of any Contracting State. In order to have more consistent wording in the main body of the Agreement for all Authorities, where an Authority is willing to act as International Searching Authority and/or International Preliminary Examining Authority for applications filed with the receiving Office of, or acting for, any Contracting State, it is proposed that Articles 3(1) and (2) nevertheless make reference to Annex A. Annex A will then specify that the Authority can act for any Contracting State (see Option A in Annex A). This will enable any such Authority to limit the Contracting States for which it is competent during the term of its agreement without the need for a formal amendment of Articles 3(1) and/or (2).]*

*[COMMENT 3: At present, the words in square brackets “and that any other requirements regarding such application as specified in Annex A to this Agreement have been met” at the end of Article 3(2) are not included in agreements where the Authority does have any such additional requirements in place. In order to have more consistent wording in the main body of the Agreement for all Authorities, it is proposed to include the reference to “any other requirements regarding such application as specified in Annex A to the Agreement” in all agreements, whether or not the Authority includes any such requirements on its competence to act as an International Preliminary Examining Authority. This will enable any Authority not including such requirements to add them without the need for a formal amendment of Article 3(2).]*

(3) Where an international application is filed with the International Bureau as receiving Office under Rule 19.1(a)(iii), paragraphs (1) and (2) apply as if that application had been filed with a receiving Office which would have been competent under Rule 19.1(a)(i) or (ii), (b) or (c) or Rule 19.2(i).

(4) The Authority shall conduct supplementary international searches in accordance with Rule 45*bis* to the extent decided by it, as set out in Annex Abis to this Agreement, covering at least the documentation referred to in Annex E to this Agreement, subject to any limitations and conditions set out in that Annex.

*[COMMENT: Articles 3(4) and 11(3)(~~iv~~<sup>vii</sup>) as well as Annex Abis (current Annex E), which all relate to supplementary international search, are only included in the agreements of Authorities currently offering this service. It is proposed that these provisions be included in the agreements of all Authorities, with Annex Abis stating whether or not the Authority carries out supplementary international searches. This will achieve greater consistency between the agreements, and also enable an Authority offering supplementary international search to cease to offer the service without the need to amend the Articles of the Agreement, which would require approval by the PCT Assembly].*

#### Article 4 Subject Matter Not Required to Be Searched or Examined

The Authority shall not be obliged to search, by virtue of Article 17(2)(a)(i), or examine, by virtue of Article 34(4)(a)(i), any international application to the extent that it considers that such application relates to subject matter set forth in Rule 39.1 or 67.1, as the case may be, with the exception of the subject matter specified in Annex B to this Agreement.

## Article 5 Fees and Charges

(1) A schedule of all fees of the Authority, and all other charges which the Authority is entitled to make, in relation to its functions as an International Searching Authority and International Preliminary Examining Authority, is set out in Annex C to this Agreement.

(2) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement:

(i) refund the whole or part of the search fee paid, or waive or reduce the search fee, where the international search report can be wholly or partly based on the results of an earlier search (Rules 16.3 and 41.1);

(ii) refund the search fee where the international application is withdrawn or considered withdrawn before the start of the international search.

(3) The Authority shall, under the conditions and to the extent set out in Annex C to this Agreement, refund the whole or part of the preliminary examination fee paid where the demand is considered as if it had not been submitted (Rule 58.3) or where the demand or the international application is withdrawn by the applicant before the start of the international preliminary examination.

## Article 6 Classification

For the purposes of Rules 43.3(a) and 70.5(b), the Authority shall indicate ~~solely~~ [the classification of the subject matter according to](#) the International Patent Classification. [The Authority may, in addition, in accordance with Rules 43.3 and 70.5, indicate the classification of the subject matter according to any other patent classification specified in Annex Cbis to this Agreement to the extent decided by it as set out in that Annex.](#)

*[COMMENT: It is proposed to amend Article 6 to allow for the indication of classification symbols in addition to the International Patent Classification if the Authority specifies the classification in a new Annex Cbis to the Agreement. With the exception of the agreement with one Authority, which allows for the indication of classification symbols under its national patent classification system in addition to those under the International Patent Classification, all current agreements indicate sole use of the International Patent Classification. In this regard, it should be noted that the current Article 6 would be incompatible with the proposal submitted to the PCT Working Group in document PCT/WG/9/26 (see also document PCT/WG/10/4).]*

## Article 7 Languages of Correspondence Used by the Authority

For the purposes of correspondence, including forms, other than with the International Bureau, the Authority shall use the language or one of the languages indicated, having regard to the language or languages indicated in Annex A and to the language or languages whose use is authorized by the Authority under Rule 92.2(b), in Annex D.

Article 8  
International-Type Search

The Authority shall carry out international-type searches to the extent decided by it [as set out in Annex E to this Agreement](#).

Article 9  
Entry into Force

This Agreement shall enter into force on January 1, ~~2008~~ [2018](#).

Article 10  
Duration and Renewability

This Agreement shall remain in force until December 31, ~~2017~~ [2027](#). The parties to this Agreement shall, no later than July ~~2016~~ [2026](#), start negotiations for its renewal.

*[COMMENT: As had been the practice in case of previous renewals, it is proposed that the new agreements should last for 10 years, and that any new agreements concluded with an Office which will be appointed to act as an International Authority during the 2017 session of the PCT Assembly or at any time thereafter during the 10 year period should equally remain in force until the end of 2027, so as to expire at the same time as all other agreements.]*

Article 11  
Amendment

(1) Without prejudice to paragraphs (2) and (3), amendments may, subject to approval by the Assembly of the International Patent Cooperation Union, be made to this Agreement by agreement between the parties hereto; they shall take effect on the date agreed upon by them.

(2) Without prejudice to paragraph (3), amendments may be made to the Annexes to this Agreement by agreement between the Director General of the World Intellectual Property Organization and the [Authority][PARTY]; and, notwithstanding paragraph (4), they shall take effect on the date agreed upon by them.

(3) The [Authority][PARTY] may, by a notification to the Director General of the World Intellectual Property Organization:

(i) add to the indications of States and languages contained in Annex A to this Agreement;

(~~iv~~) amend the indications ~~and information concerning~~ [on](#) supplementary international searches contained in Annex ~~E~~[A](#)~~bis~~ to this Agreement;

(~~iii~~) amend the schedule of fees and charges contained in Annex C to this Agreement;

[\(iv\) amend the indications on patent classification systems contained in Annex Cbis to this Agreement;](#)

(~~iii~~) amend the indications ~~of~~ [on](#) languages of correspondence contained in Annex D to this Agreement;

(vi) amend the indications on international-type searches contained in Annex E to this Agreement.

(4) Any amendment notified under paragraph (3) shall take effect on the date specified in the notification, provided that:

(i) for an amendment to Annex Abis to the effect that the Authority shall no longer conduct supplementary international searches, that date is at least six months later than the date on which the notification is received by the International Bureau, and

(ii) for any change in the currency or amount of fees or charges contained in Annex C, for any addition of new fees or charges, and for any change in the conditions for and the extent of refunds or reductions of fees contained in Annex C, that date is at least two months later than the date on which the notification is received by the International Bureau.

*[COMMENT 1: The words "Authority" and "PARTY" have been put in square brackets since, under the current agreements, the power to amend the Annexes by way of an agreement with the International Bureau or unilaterally by notifying the International Bureau, as provided for under Article 11(2) and (3), rests either with the Authority (in the case of all agreements except for one) or with the Party who has concluded the agreement (in the case of one agreement).]*

*[COMMENT 2: It is proposed to provide for the possibility for an Authority to amend Annex Abis by way of a notification to the International Bureau to the effect that that the Authority shall cease to offer supplementary international searches as of a particular date, that date being at least six months after the date on which the Director General has received such notification.]*

## Article 12 Termination

(1) This Agreement shall terminate before December 31, ~~2017~~ 2027:

(i) if the PARTY gives the Director General of the World Intellectual Property Organization written notice to terminate this Agreement; or

(ii) if the Director General of the World Intellectual Property Organization gives the PARTY written notice to terminate this Agreement.

(2) The termination of this Agreement under paragraph (1) shall take effect one year after receipt of the notice by the other party, unless a longer period is specified in such notice or unless both parties agree on a shorter period.

*[COMMENT: In a number of the current agreements, the signatory party is the same as the Authority and the term "Authority" is used in Article 12 in place of the name of the signatory party. For reasons of consistency, it is proposed to refer, in the new agreements, to the name of the party in all cases.]*

*In witness whereof* the parties hereto have executed this Agreement.

Done at GENEVA, this DATE, in XX originals in the ... language(s).

For the PARTY by:

For the International Bureau of the World  
Intellectual Property Organization by:

Francis Gurry  
Director General  
World Intellectual Property Organization

Annex A  
[States and ]Languages

Under Article 3 of the Agreement, the Authority specifies:

{(i) the following States for which it will act:

so far as Article 3(1) is concerned: ...

[subject to the following conditions: ...]

so far as Article 3(2) is concerned: [where the Authority [or an industrial property Office of a State party to the European Patent Convention] has prepared the international search report,] ...

[subject to the following conditions: ...]

Where a receiving Office specifies the International Authority under Articles 3(1) and (2), the International Authority shall become competent for international applications filed at that receiving Office from a date to be agreed by the receiving Office and International Authority and to be notified to the International Bureau.

*[COMMENT 1: As at present, the text in square brackets at the beginning of the reference to Article 3(2) allows an Authority to limit its competence as an International Preliminary Examining Authority to international applications in respect of which the Authority (or, in the case of the European Patent Office, the Authority itself or an IP Office of an EPC Contracting State) has prepared the international search report].*

*[COMMENT 2: The text in square brackets adding further conditions would be used where an Office has applied further limitations, such as those relating to maximum numbers or certain subject matter, for example, the agreements concerning the Israel Patent Office and Japan Patent Office in their capacities as an International Searching Authority and International Preliminary Examining Authority with respect to applications filed at the receiving Office of the United States Patent Trademark Office - see <http://www.uspto.gov/about-us/news-updates/uspto-and-jpo-announce-patent-cooperation-treaty-agreement> and [http://www.uspto.gov/sites/default/files/patents/law/notices/ilpo\\_isa-ipea.pdf](http://www.uspto.gov/sites/default/files/patents/law/notices/ilpo_isa-ipea.pdf)].*

*[COMMENT 3: For specifying States for which the Authority is competent, the following options could be used:*

OPTION A: “any Contracting State”.

*(Option A should be chosen by an Authority that is willing to act as International Searching Authority and/or International Preliminary Examining Authority for applications filed with any receiving Office of, or acting for, any PCT Contracting State. The proposed text differs from the present text of the agreements for these Authorities, which does not specify any States in Annex A – see text enclosed in square brackets indicated by strikethrough).*

OPTION B: “any Contracting State in accordance with the obligations of ... within the framework of the European Patent Organisation”.

*(Option B should be chosen by most Authorities of States party to the European Patent Convention. For these Authorities, it is proposed not to specify names of any particular States that fall within the broader proposed definition.)*

OPTION C: “[*indication of an exhaustive list of States by name and/or definition*]”.

*(For option C, a definition could relate to the geographical location (e.g. “any State of the Latin American and Caribbean region”) or to the classification of a State as a developing or least developed country (e.g., “any State being regarded as a developing country in accordance with ...[a defined established practice]”).)*

*[COMMENT 4: It is proposed to clarify the procedure for a receiving Office of, or acting for, a State specified in this Annex as being competent by an Authority, to specify the Authority to act as an International Searching Authority and/or International Preliminary Examining Authority.]*

*[COMMENT 5: In specifying States, it is proposed to avoid wording such as “and any State that the Authority will specify”, “by arrangement” or “provided an agreement between the State has been concluded”. Such wording lacks clarity as it implies that the Authority could act as an International Searching and/or Preliminary Examining Authority for States other than those defined in Annex A. It is also not clear to state that an agreement needs to be made between the receiving Office and the Authority, since this could allow an Authority to decide not to conclude such an agreement with a receiving Office of a State that is specified in this Annex (whether specified individually or as part of a collective definition).]*

(ii) the following language[s] which it will accept:

...

*[COMMENT: As at present, an Authority would continue to be able to specify the languages in which it will accept international applications, including different languages depending on the receiving Office with which the international application was filed].*

{Annex ~~E~~Abis  
Supplementary International Search:  
Documentation Covered; Limitations and Conditions}

[The Authority does not conduct supplementary international searches.]

[The Authority conducts supplementary international searches as follows:

...]

*[COMMENT: An Authority would specify whether or not it conducts supplementary international searches. This would be followed by the documentation and limitations and conditions for those Authorities offering supplementary international searches, similar to the contents at present in Annex E. Authorities offering supplementary international search have different text in that Annex. However, it is not proposed to align the provisions more closely at this time.]*

Annex B  
Subject Matter Not Excluded from Search or Examination

The subject matter set forth in Rule 39.1 or 67.1 which, under Article 4 of the Agreement, is not excluded from search or examination is the following:

[any subject matter which is searched or examined under the patent grant procedure in accordance with the provisions of [name of national patent law and of country] [European Patent Convention]] [none]].

*[COMMENT: Notwithstanding the exclusions in Rules 39.1 and 67.1, almost all Authorities search or examine subject matter in international patent applications that they would search or examine in national or regional patent applications. Where this is the case, it is proposed to use the above standardized text, inserting the names of the applicable national laws and country/countries or "European Patent Convention", as appropriate. If there is no subject matter set forth in Rules 39.1 and 67.1 that will be searched or examined by an International Authority, the Authority should simply indicate "none".]*

Annex C  
Fees and Charges

**Part I. Schedule of Fees and Charges**

Kind of fee or charge	Amount (currency)
Search fee (Rule 16.1(a))	...
Additional fee (Rule 40.2(a))	...
[Supplementary search fee(s) (Rule 45bis.3(a))	...]
Preliminary examination fee (Rule 58.1(b))	...
[Late payment fee for preliminary examination	amount as set out in Rule 58bis.2]
Additional fee (Rule 68.3(a))	...
[Protest fee (Rules 40.2(e) and 68.3(e))	...]
[Late furnishing fee for sequence listings (Rules 13ter.1(c) and 13ter.2)...]	...]
[Cost of copies (Rules 44.3(b), 71.2(b) and 94.2)	...]

*[COMMENT: Fees in square brackets are optional and are not charged by all Authorities. Footnotes are used where reductions are offered for applicants from certain countries, notably developing and/or least developed countries. Two current agreements also include footnotes to indicate that the amount of the search fee is fixed in the form of an equivalent amount of the euro amount of the search fee payable to the European Patent Office as an International Searching Authority, as modified from time to time in accordance with the Directives under Rule 16.1(d).]*

## **Part II. Conditions for and Extent of Refunds or Reductions of Fees**

(1) Any amount paid by mistake, without cause, or in excess of the amount due, for fees indicated in Part I shall be refunded.

(2) Where the international application is withdrawn or considered withdrawn, under Article 14(1), (3) or (4), before the start of the international search, the amount of the search fee paid shall be fully refunded.

(3) Where the Authority benefits from the results of an earlier search [already made by the Authority on an application whose priority is claimed for the international application], ... % of the amount of the search fee paid shall be refunded [on request of the applicant], [depending on the extent to which an Authority benefits from that earlier search].

*[COMMENT: There is considerable variation in the current agreements in the wording of the provisions relating to refunding the search fee where the Authority benefits from the results of an earlier search; the agreement of one Authority does not include such a provision. While an Authority may determine the amount of any refund and the conditions for any such refund, Authorities may wish to consider the possibilities to achieve greater consistency in the wording of this provision between the different agreements. The text above is based on the more commonly-used wording in the existing agreements, with optional parts indicated in square brackets.]*

(4) In the cases provided for under Rule 58.3, the amount of the preliminary examination fee paid shall be fully refunded.

*[COMMENT: The current agreements of most Authorities include this general provision to cover the case where the demand for international preliminary examination has been considered as if it had not been submitted. The agreement of one Authority provides a full refund, but lists the relevant provisions (Rules 54.4, 54bis.1(b), 58bis.1(b) and 60.1(c)). The agreements of two Authorities offer a full refund except for Rule 60.1(c), where a full refund is given less the amount of the transmittal fee.]*

(5) When the international application or the demand is withdrawn before the start of the international preliminary examination, the amount of the preliminary examination fee paid shall be fully refunded.

*[COMMENT: Most Authorities provide a full refund of the preliminary examination fee where the international application or the demand is withdrawn before the start of international preliminary examination. Two Authorities offer a 75% refund of the preliminary examination fee. One Authority offers a full refund less a processing fee equivalent to the transmittal fee under Rule 14.1(b).]*

[(6) The Authority shall refund the supplementary search fee if, before it has started the supplementary international search in accordance with Rule 45bis.5(a), the supplementary search request is considered not to have been submitted under Rule 45bis.5(g).]

*[COMMENT: All but one Authority offering supplementary international search provides for this refund.]*

[(7) The Authority shall refund the supplementary search fee if, after receipt of the documents specified in Rule 45bis.4(e)(i) to (iv), but before it has started the supplementary international search in accordance with Rule 45bis.5(a), it is notified of the withdrawal of the international application or the supplementary search request.]

*[COMMENT 1: Three Authorities offering supplementary international search provide for this refund.]*

*[COMMENT 2: The agreement of one Authority also includes a provision permitting it to abstain from refunding the search fee and the preliminary examination fee in certain situations where such a refund is not compatible with the applicable national law.]*

### Annex Cbis Classification

Under Article 6 of the Agreement, the Authority specifies the following classification system(s) in addition to the International Patent Classification: [none][CLASSIFICATION].

*[COMMENT: Authorities wishing to use a national patent classification in addition to the International Patent Classification would specify the classification system in this Annex.]*

### Annex D Languages of Correspondence

Under Article 7 of the Agreement, the Authority specifies the following language(s):

...

[noting that the language of correspondence shall be the language in which the international application is filed or translated, as the case may be.]

[depending on the language in which the international application is filed or translated.]

*[COMMENT: For those Authorities processing international applications in more than one language, the agreements contain a number of variations, generally to the effect of one of the two options in square brackets above. In most cases, the language is required to be the same as that in which the international application was filed, or, where applicable, translated. Some Authorities also offer the option of correspondence in the "main" language(s) of the Authority, irrespective of the language of filing or translation. Other options might include that a response to an individual item of correspondence shall be in the language of that correspondence (assuming that it is one of the listed options) irrespective of the language of the international application.].*

Annex E  
International-type Search

Under Article 8 of the Agreement, the Authority specifies the following extent of international-type searches:

[The Authority does not conduct international-type searches.]

[The Authority conducts international-type searches as follows:

... ]

[End of Annex and of document]