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INTERNATIONAL UNIONS

Trademark Registration Treaty

Done at Vienna on June 12, 1973

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Introductory Provisions

Article I

Establishment of a Union

The States party to this Treaty (hereinafter called "the Contracting States") constitute a Union for the international registration of marks.

Article 2

Abbreviated Expressions

For the purposes of this Treaty and the Regulations and unless expressly stated otherwise:

(i) "international registration" means a registration effected under this Treaty by the International Bureau in the International Register of Marks;

(ii) "international application" means an application filed for international registration;

(iii) "applicant" means the natural person who or legal entity which files the international application;

(iv) "owner of the international registration" means the natural person or the legal entity in whose name the international registration stands in respect of all or fewer than all the designated States and in respect of all or some only of the goods and/or services listed in that registration;

(v) "mark" means both a trademark and a service mark; it also includes a collective mark within the meaning of Article 7^{bis} of the Stockholm (1967) Act of the Paris Convention for the Protection of Industrial Property and a certification

mark whether or not such certification mark is a collective mark within the said meaning;

(vi) "national mark" means a mark registered by a government authority of a Contracting State having the power to grant registrations with effect in that State; references to a *national mark* shall not be construed as references also to regional marks;

(vii) "regional mark" means a mark registered by an intergovernmental authority other than the International Bureau having the power to grant registrations with effect in more than one State;

(viii) references to any *final* decision or *final* refusal shall be construed as references to a decision or refusal against which there is no remedy, or against which all remedies have been exhausted, or where the time limit for asking for a remedy against the refusal or decision has expired;

(ix) references to any *publication by the International Bureau* shall be construed as references to publications effected in the official Gazette of that Bureau;

(x) references to the *date of the publication* of the international registration or to the *date of the publication* of the recording of the later designation shall be construed as references to the date of that issue of the official Gazette of the International Bureau in which the international registration or the recording of the later designation, as the case may be, has been published;

(xi) references to any *recording by the International Bureau* shall be construed as references to recordings made in the International Register of Marks;

(xii) "designated State" means any Contracting State in which the applicant or the owner of the international registration desires that such registration produce the effects provided for in this Treaty and which has been identified for that purpose in the international application or any request for the recording of later designations;

(xiii) "national Office" means the government authority of a Contracting State entrusted with the registration of marks; references to a *national Office* shall be construed as referring also to any intergovernmental authority which several States have entrusted with the task of registering regional marks, provided that at least one of those States is a Contracting State, and provided that such authority has been empowered to assume the obligations and exercise the powers which this Treaty and the Regulations provide for in respect of national Offices;

(xiv) "national register of marks" means the register of marks kept by a national Office in which national and/or regional marks are registered;

(xv) "designated Office" means the national Office of the designated State;

(xvi) references to *national law* shall be construed as references to the national law of a Contracting State and, where a regional mark is involved, to the regional treaty providing for the registration of regional marks;

(xvii) "Madrid Agreement" means the Madrid Agreement Concerning the International Registration of Marks;

(xviii) "Union" means the Union referred to in Article 1;

- (xix) "Assembly" means the Assembly of the Union;
- (xx) "Organization" means the World Intellectual Property Organization;
- (xxi) "International Bureau" means the International Bureau of the Organization and, as long as it subsists, the United International Bureaux for the Protection of Intellectual Property (BIRPI); and where any provision refers to the receiving of documents, or of payments, by the International Bureau, it also includes any agency of that Bureau established under Article 32(2)(a)(ix);
- (xxii) "Director General" means the Director General of the Organization;
- (xxiii) "International Classification" means the classification established under the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks;
- (xxiv) "Regulations" means the Regulations referred to in Article 35.

CHAPTER I

Substantive Provisions

Article 3

International Register of Marks

- (1) [*International Registrations*] The International Bureau shall register marks in the International Register of Marks according to the provisions of this Treaty and the Regulations.
- (2) [*International Applications*] International registrations shall be effected on the basis of international applications.

Article 4

Right To File International Applications and To Own International Registrations

- (1) [*Entitlement*] (a) Any resident or national of a Contracting State may file international applications and may own international registrations.
- (b) If there are several applicants, they shall have the right to file an international application only if all of them are residents or nationals of Contracting States.
- (c) If there are several owners of an international registration, they shall have the right to own such a registration only if all of them are residents or nationals of Contracting States.
- (2) [*Natural Persons*] (a) Any natural person shall be regarded as a resident of a Contracting State if:
- (i) according to the national law of that State, he is a resident of that State, or
 - (ii) he has a real and effective industrial or commercial establishment in that State.
- (b) Any natural person shall be regarded as a national of a Contracting State if, according to the national law of that State, he has the nationality of that State.

- (3) [*Legal Entities*] (a) Any legal entity shall be regarded as a resident of a Contracting State if it has a real and effective industrial or commercial establishment in that State.

- (b) Any legal entity shall be regarded as a national of a Contracting State if it is constituted according to the national law of that State.

- (4) [*Different Residence and Nationality*] If the State of the residence and the State of the nationality of the applicant or owner of the international registration are different, and only one of those States is a Contracting State, the Contracting State alone shall be considered for the purposes of this Treaty and the Regulations.

- (5) [*Certain Associations*] Where under the national law of any Contracting State an association of natural persons or legal entities may own marks notwithstanding the fact that it is not a legal entity, it shall be entitled to file international applications and to own international registrations, provided it is a resident or national of that State within the meaning of paragraph (3).

- (6) [*Domestic Filing*] (a) The national law of any Contracting State may provide that, where the applicant is both a resident and a national of that State, an international application may be filed only if the mark that is the subject of the international application is, at the time of the filing of that application, the subject of an application for registration, in the name of the said applicant, in the national register of marks of that State in respect of at least those goods and/or services listed in the international application.

- (b) Subparagraph (a) shall not apply where, at the time of the filing of the international application, the mark that is the subject of the international application is already registered in the name of the applicant in the national register of marks of the said State in respect of the said goods and/or services.

Article 5

The International Application

- (1) (a) [*Mandatory Contents*] The international application shall contain, as specified in this Treaty and the Regulations:
- (i) an indication that it is filed under this Treaty,
 - (ii) indications concerning the applicant's identity, residence, nationality, and address,
 - (iii) a reproduction of the mark,
 - (iv) a list of goods and/or services in which the terms are grouped under the applicable classes of the International Classification and in which each term is comprehensible, permits classification in one class only of that Classification, and, as far as possible, is one that appears in the alphabetical list of goods and/or services of the said Classification,
 - (v) the identification of the designated State or States,
 - (vi) in respect of any designated State in which the effects provided for in this Treaty are available either as if the mark had been applied for and registered as a national mark or as if the mark had been applied for and registered as a regional mark, an indication of the choice between the two,
 - (vii) in respect of any designated State in which the effects provided for in this Treaty are desired as for a collective mark or a certification mark, an indication to that effect.

(b) [Optional Contents] The international application may contain a declaration, as provided in the Regulations, claiming the priority of one or more earlier applications filed in or for any country party to the Paris Convention for the Protection of Industrial Property. Furthermore, the international application may contain such additional indications as are provided for in other provisions of this Treaty and in the Regulations.

(c) [Language, Form, Signature, Fees] The international application shall be in a prescribed language and in the prescribed form, shall be signed as provided in the Regulations, and shall be subject to the payment of the prescribed fees.

(2) [Filing With International Bureau] International applications shall be filed direct with the International Bureau.

(3) [Filing Through National Office] (a) Notwithstanding paragraph (2) but subject to subparagraph (c), the national law of any Contracting State may provide that international applications of residents of that State may be filed through the intermediary of the national Office of the said State.

(b) Where the international application is filed through the intermediary of a national Office competent under subparagraph (a), that Office shall indicate on the international application the date on which it received that application and shall promptly transmit the same to the International Bureau, as provided in the Regulations.

(c) Any Contracting State on whose territory an agency of the International Bureau, established under Article 32(2)(a)(ix), is functioning shall, at least for the time such agency functions, suspend the application of any provision of its national law referred to in subparagraph (a) and Article 6(3)(a).

Article 6

Later Designation

(1) [Possibility of Later Designation] Any Contracting State not designated in the international application or whose designation has ceased to have the effects provided for in Article 11 may be designated by the applicant or, once the international registration has been effected, by the owner of the international registration, as provided in the Regulations ("later designation").

(2) (a) [Mandatory Contents; Filing With International Bureau] Any later designation shall be the subject of a request for the recording of later designations. Several States may be designated in the same request. The request shall be filed direct with the International Bureau and shall contain, as specified in the Regulations:

(i) an indication that it is for the recording of later designations under this Treaty,

(ii) indications concerning the identity, residence, nationality and address of the applicant or, where the international registration has already been effected, of the owner of the international registration,

(iii) the identification of the international application or, where the international registration has already been effected, of such registration,

(iv) the identification of the later designated State or States,

(v) in respect of any later designated State in which the effects provided for in this Treaty are available either as if the mark had been applied for and registered as a national mark or as if the mark had been applied for and registered as a regional mark, an indication of the choice between the two,

(vi) in respect of any later designated State in which the effects provided for in this Treaty are desired as for a collective mark or a certification mark, an indication to that effect.

(b) [Optional Contents] The request may contain a declaration, as provided in the Regulations, claiming the priority of one or more earlier applications filed in or for any country party to the Paris Convention for the Protection of Industrial Property. Furthermore, the request may contain in respect of any State designated therein a list of goods and/or services, provided that, if that list is different from the list of goods and/or services included in the international registration as published or, if the international registration has not yet been published, from the list of goods and/or services included in the international application after any limitation under Article 7(4), it shall conform with the formal concept of limitation as defined in the Regulations. Finally, the request may contain such additional indications as are provided for in other provisions of this Treaty and in the Regulations.

(c) [Language, Form, Signature, Fees] The request shall be in a prescribed language and in the prescribed form, shall be signed as provided in the Regulations, and shall be subject to the payment of the prescribed fees.

(3) [Filing Through National Office] (a) Notwithstanding paragraph (2)(a) but subject to Article 5(3)(c), the national law of any Contracting State may provide that requests for the recording of later designations by residents of that State may be filed through the intermediary of the national Office of the said State.

(b) Where the request for the recording of later designations is filed through the intermediary of a national Office competent under subparagraph (a), that Office shall indicate on the request the date on which it received that request and shall promptly transmit the same to the International Bureau, as provided in the Regulations.

Article 7

International Registration or Declining of the International Application

(1) [No Defects] Subject to paragraphs (2) to (5), the International Bureau shall promptly effect the international registration as applied for, and the date under which such registration shall be effected ("international registration date") shall be the date on which the international application was received by the International Bureau or, in the case of an international application filed through the intermediary of a

national Office under Article 5(3), the date on which it was received by that Office provided that the said application is received by the International Bureau before the expiration of 45 days from that date. The International Bureau shall issue to the owner of the international registration a certificate of international registration.

(2) [*Defects Which Necessarily Entail a Later Registration Date*] (a) Where the International Bureau finds any of the following defects, that is to say, where:

- (i) the international application does not contain an indication that it is filed under this Treaty,
- (ii) the international application is in a language other than one of the prescribed languages,
- (iii) the international application contains no indications concerning the residence or nationality of the applicant or only such indications as do not permit the conclusion that he has the right to file international applications,
- (iv) the international application contains no indications concerning the applicant's identity and address or only such indications as do not permit him to be identified and reached by mail,
- (v) the international application does not include the reproduction of the mark,
- (vi) the international application does not contain a list of goods and/or services,
- (vii) the international application does not designate any Contracting State,
- (viii) no fees have been received by the International Bureau on or before the date on which the international application is received by that Bureau or, where the international application is filed through the intermediary of a national Office under Article 5(3), no fees have been received by the International Bureau within 45 days from the date on which that Office received the international application,
- (ix) the amount of the fees received by the International Bureau by the date referred to in item (viii) does not attain the amount ("minimum amount") fixed in the Regulations,

it shall invite the applicant to correct the defect; however, where the defect referred to in item (iv) makes it unlikely for the invitation to reach the applicant, the International Bureau is not required to send such invitation.

(b) If the defect is not corrected within three months from the date on which the International Bureau received the international application, the International Bureau shall decline that application.

(c) If the defect is corrected within the time limit referred to in subparagraph (b) and unless the international application is declined under paragraph (3)(b), the International Bureau shall effect the international registration, and the international registration date shall be the date on which that Bureau received the required correction or the prescribed amount of the fees, unless a later date is applicable under paragraph (3)(d).

(3) [*Defects Which Do Not Necessarily Entail a Later Registration Date*] (a) Where the International Bureau finds any of the following defects, that is to say, where:

- (i) the amount of the fees received by the International Bureau by the date referred to in paragraph (2)(a)(viii) is less than the amount prescribed but attains the minimum amount,
 - (ii) the international application does not contain, in respect of any designated State to which Article 5(1)(a)(vi) applies, the indication of the choice referred to in the said provision,
 - (iii) the international application is not signed,
- it shall invite the applicant to correct the defect.

(b) If the defect is not corrected within three months from the date on which the International Bureau received the international application, the International Bureau shall decline that application or, if the only defect which is not corrected within the said time limit is the defect referred to in subparagraph (a)(ii), the International Bureau shall decline to record the State concerned as a designated State.

(c) If the defect is corrected before the expiration of one month from the date of the invitation referred to in subparagraph (a) and unless the international application is declined under subparagraph (b) or paragraph (2)(b), the International Bureau shall effect the international registration, and the international registration date shall be the date referred to in paragraph (1), unless a later date is applicable under paragraph (2)(c).

(d) If the defect is corrected later than at the expiration of one month from the date of the invitation referred to in subparagraph (a) but earlier than at the expiration of three months from the date on which the International Bureau received the international application, and unless the international application is declined under paragraph (2)(b), the International Bureau shall effect the international registration, and the international registration date shall be the date on which that Bureau received the required correction or payment, unless a later date is applicable under paragraph (2)(c).

(4) [*Classification Causing Increase in Fees*] (a) Where the International Bureau finds that, by classifying any of the terms appearing in the list of goods and/or services in or also in a class or classes of the International Classification in which such term was not classified in the international application as filed, the amount of the fees required is higher than if that term had not been so classified, the invitation referred to in paragraph (2)(a) or (3)(a) shall contain appropriate explanations and shall indicate that the applicant may limit the list of goods and/or services.

(b) If, within three months from the date on which the International Bureau received the international application, it receives from the applicant a statement which limits the list of goods and/or services in conformity with the formal concept of limitation as defined in the Regulations, the International Bureau shall modify the list of goods and/or services accordingly and, if such modification entails a change in the prescribed amount of the fees, such change shall be taken into account by the International Bureau in determining that

amount and in applying paragraph (2)(b), (2)(c), (3)(b), (3)(c), or (3)(d), as the case may be.

(5) [Details] (a) The Regulations shall provide for the details of the procedure under paragraphs (1) to (4).

(b) Failure to send or receive any invitation referred to in paragraphs (2) to (4), or any delay in dispatching or receiving it, or any error therein, shall not extend the time limits fixed in those paragraphs and shall not affect any obligation to decline the international application.

(c) Where the international application is declined, the International Bureau shall reimburse to the applicant such amounts as are specified in the Regulations.

(6) [Defects Peculiar to Filings Through National Offices] Where the international application filed through the intermediary of a national Office under Article 5(3):

- (i) does not indicate that the applicant is a resident of the State through the intermediary of whose national Office the international application was filed, or
- (ii) does not contain a statement by the said national Office indicating the date on which that Office received the international application, or
- (iii) contains the said statement indicating a date which precedes by more than 45 days the date on which the International Bureau received the international application,

that application shall be treated as if it had been filed direct with the International Bureau on the date it reached that Bureau.

Article 8

Recording or Declining of Later Designations

(1) [No Defects] Subject to paragraph (2), the International Bureau shall promptly effect the recording of any later designation as requested, and the date under which such recording shall be effected ("recording date of the later designation") shall be the date on which the request for the recording of the later designation was received by the International Bureau or, in the case of a request filed through the intermediary of a national Office under Article 6(3), the date on which it was received by that Office, provided that the said request is received by the International Bureau before the expiration of 45 days from that date. The International Bureau shall issue to the owner of the international registration a certificate of the recording of the later designation.

(2) [Defects] (a) The provisions of Article 7(2) to (6) shall apply, *mutatis mutandis*, to the recording of later designations and declining of requests for the recording of later designations, provided that, once the international registration has been effected, any reference to the applicant shall be considered a reference to the owner of the international registration.

(b) Notwithstanding subparagraph (a), items (v) and (vi) of Article 7(2)(a) shall be considered to have been replaced by the following:

"(v) the request does not identify the international application or, once the international registration has been effected, such registration."

(c) Notwithstanding subparagraph (a), Article 7(3)(a) shall be considered to have been completed by the following:

"(iv) any list of goods and/or services contained in the request does not conform with the requirements of Article 6(2)(b), second sentence."

Article 9

Avoiding the Effects of Declining

(1) [Requesting Redress Through Designated Office] Where the International Bureau has declined the international application or a request for the recording of later designation, the applicant or the owner of the international registration may, within two months from the date of the notification of the declining, file with the national Office of any State designated in the declined international application or declined request:

(i) a petition for the purpose of requesting the International Bureau to proceed, in respect of that State, where the international application was declined, with the international registration and the recording of the designation of the said State or, where the request for the recording of the later designation was declined, with the recording of the designation of that State, or

(ii) an application for the registration, in the national register of marks ("national application"), of the mark that is the subject of the declined international application or declined request, in respect of all or some of the goods and/or services indicated in the said international application or the said request, such application complying with all the requirements of the national law of the said State for the filing of applications for the registration of marks in the national register of marks.

(2) [Decision on the Request] If the national Office or any other competent authority of the said State finds that the declining, by the International Bureau, of the international application or of the request for the recording of the later designation of that State was unjustified under this Treaty or the Regulations, or that the declining was based on the fact that there was a delay in meeting a time limit which must be excused by virtue of Article 29(1), then:

(i) where a petition has been filed under paragraph (1)(i), the said national Office shall request the International Bureau to proceed as provided in that paragraph, and the International Bureau shall proceed as requested, and the international registration date or the recording date of the later designation shall be the same as if the declining had not taken place,

(ii) where a national application has been filed under paragraph (1)(ii), that application shall, provided it complies with all the requirements of the national law of the said State for the filing of applications for the registration of marks in the national register of marks, be treated as if it had been filed on the date which would have been the international registration date or the recording date of the later designation had the declining not taken place.

(3) [*Recording of the Petition for Redress*] The applicant or the owner of the international registration who files a petition under paragraph (1)(i) shall, at the time of filing the petition, transmit a copy of that petition to the International Bureau. If the petition relates to a mark which is already registered in the International Register of Marks, the International Bureau shall, as provided in the Regulations, record and publish the fact that it has received a copy of such petition; otherwise it shall keep the said copy in its files.

Article 10

Publication and Notification

(1) [*Publication*] International registrations and recordings of later designations shall be promptly published by the International Bureau, as provided in the Regulations.

(2) [*Notification*] International registrations and recordings of later designations shall be promptly notified by the International Bureau to the national Offices of each designated State, as provided in the Regulations.

Article 11

Effects of International Registration and of Recording of Later Designation

(1) [*National Application Effect*] The international registration of a mark and the recording of any later designation, published and notified as provided in Article 10, shall have the same effect in each designated State as if an application for the registration of the mark in the national register of marks had been filed with the national Office of that State on the international registration date or on the recording date of the later designation, as the case may be.

(2) [*National Registration Effect*] Furthermore, the said international registration and recording shall, subject to Articles 12 and 13, have the same effect in each designated State as if the mark had been registered in the national register of marks of that State; such effect shall come into existence in any designated State:

(i) where no refusal or notice that a refusal may eventually be pronounced ("notice of possible refusal") has been notified by the national Office of that State within the time limit fixed in Article 12(2)(a)(i), at the expiration of the said time limit or on such earlier date as may be prescribed by the national law of that State,

(ii) where a refusal or a notice of possible refusal has been notified by the national Office of that State within the time limit fixed in Article 12(2)(a)(i), if and when, and to the extent to which, the refusal is reversed by a final decision or the final decision taken in the proceedings referred to in the notice of possible refusal results in acceptance of the effect provided for in this paragraph, and shall be deemed to have started as of the international registration date or the recording date of the later designation, as the case may be.

(3) [*Several National Registers*] Where, in any designated State, there is more than one national register of marks or the national register of marks has several parts, the reference in paragraphs (1) and (2) to the national register of marks shall be construed as a reference to that national register or that part of the national register which affords the highest degree of protection, unless another register or part of the register is indicated in the international application or the request for the recording of the later designation. In the case of such indication, the reference in paragraphs (1) and (2) to the national register of marks shall be construed as a reference to the register or part of the register so indicated.

Article 12

Refusal of the Effects Provided For in Article 11

(1) [*Grounds of Refusal*] Subject to paragraph (2) and Articles 19, 21(3) and 22(3), the effects provided for in Article 11 may, in respect of any designated State, be refused by the competent authorities of that State:

(i) on the same grounds and to the same extent as those in respect of which applications for the registration of marks in the national register of marks may be refused under the national law of the said State, provided that such grounds are not incompatible with this Treaty and the Regulations or the most recent provisions of the Paris Convention for the Protection of Industrial Property by which that State is bound, and provided that Article 6^{quinquies} of the Stockholm (1967) Act of the said Convention shall apply also to marks registered under this Treaty, the international registration taking the place, for the purposes of the said Article 6^{quinquies}, of registration in the country of origin,

(ii) on the ground that the owner of the international registration is not entitled to own international registrations or that the applicant was not entitled to file international applications.

(2) [*Time Limit and Other Conditions*] (a) Any refusal under paragraph (1) shall be effective only:

(i) if the refusal or notice of possible refusal is notified, as provided in the Regulations, by the national Office of the designated State to the International Bureau so that the latter receives it within 15 months or, in the case of a certification mark, 18 months from the date of the publication of the international registration, or, in the case of a later designation, of the publication of the recording of the later designation of such State, and

(ii) in the case of a refusal, if the grounds for the refusal are specified, and provided, where such refusal is not final, that the grounds given in the final decision of refusal include at least one of the grounds specified in the said refusal and the final decision is or is also based on at least one of the grounds specified in the said refusal,

(iii) in the case of a notice of possible refusal followed by a refusal, if the notice specifies, as provided in the Regulations, the grounds on which a refusal may eventually be pronounced, and provided that the grounds given in the final decision of refusal include at least one of the grounds specified

in the said notice and the final decision is or is also based on at least one of the grounds specified in the said notice.

(b) The proviso of subparagraph (a)(ii) and the proviso of subparagraph (a)(iii) shall not apply where the final decision is that of a court or other independent review authority.

(c) Subparagraph (a) shall not apply where the refusal is based on lack of compliance with the requirements of the national law of the designated State permitted by Article 19(3).

(3) [Remedies] The owner of the international registration shall, with reasonable time limits, have in any designated State the same remedies against any decision of refusal and the same procedural and substantive rights in connection with any intended refusal, whether ex officio or based on the opposition of a third party, as have applicants who apply for the registration of marks in the national register of marks of the State in question.

(4) [Procedural Details] (a) The International Bureau shall record any notification received under paragraph (2)(a) and publish a corresponding notice.

(b) Where the decision of refusal is final, the national Office of the designated State shall notify the International Bureau accordingly, and that Bureau shall record the final decision, cancel the designation of that State, or, in a case where the final decision relates to some only of the goods and/or services listed, cancel in respect of the said State those goods and/or services to which the said decision relates, and publish such cancellation.

(c) Where a refusal which is not final or a notice of possible refusal has been notified under paragraph (2)(a) and the final decision results in acceptance of the effect referred to in Article 11(2), the national Office of the designated State shall notify the International Bureau accordingly, and the International Bureau shall record the notification received and publish a corresponding notice.

(d) The details of the procedures referred to in subparagraphs (a) to (c) are provided in the Regulations.

Article 13

Cancellation of the Effect Acquired Under Article 11(2)

(1) [Grounds of Cancellation] Subject to Article 19, the effect acquired under Article 11(2) may, in respect of any designated State, be cancelled by the competent authorities of that State:

(i) on the same grounds, to the same extent and subject to the same procedure as those in respect of which registrations of marks in the national register of marks may be cancelled under the national law of the said State, provided that such grounds and such procedure are not incompatible with this Treaty and the Regulations or the most recent provisions of the Paris Convention for the Protection of Industrial Property by which that State is bound, and provided that Article 6^{quinquies} of the Stockholm (1967) Act of the Paris Convention for the Protection of Industrial Property shall apply also to marks registered under this Treaty, the international registration taking the place, for the purposes of the said Article 6^{quinquies}, of registration in the country of origin,

(ii) on the ground that the owner of the international registration is not entitled to own international registrations or that the applicant was not entitled to file international applications.

(2) [Defense and Remedies] The competent authorities of the designated State shall give, with reasonable advance notice, an opportunity to the owner of the international registration to defend his rights in any cancellation proceeding and such owner shall have the same remedies against any decision of cancellation as have owners of marks registered in the national register of marks of the said State.

(3) [Procedural Details] If the decision of cancellation is final, the national Office of the designated State shall notify the International Bureau accordingly, and that Bureau shall record that decision, cancel the designation of the said State or, in a case where the cancellation relates to some only of the goods and/or services listed, cancel — in respect of that State — those goods and/or services to which the said decision relates, and publish such cancellation.

Article 14

Change in the Ownership of the International Registration

(1) (a) [Total or Partial Change; Request; Recording] Where the ownership of any international registration changes so that the new owner has become the owner in respect of all or fewer than all of the designated States and in respect of all or some only of the goods and/or services, the change in ownership shall, on request, subject to paragraph (2), be recorded by the International Bureau.

(b) [Details of the Request] The request shall contain, as provided in the Regulations:

(i) an indication to the effect that the recording by the International Bureau of a change in ownership is requested,

(ii) the international registration number of the international registration,

(iii) indications concerning the name, residence, nationality and address of the new owner,

(iv) the identification of those of the designated States in respect of which the new owner has acquired ownership and the identification, in respect of each of those States, of those of the goods and/or services for which the new owner has acquired ownership.

(c) [Signature] The request shall be signed by the person who, pursuant to the change in ownership, ceases to own the international registration in respect of all or fewer than all of the designated States and in respect of all or some only of the goods and/or services ("earlier owner") or, where the earlier owner is unable to sign, by the new owner, provided that if it is signed by the new owner the request shall also contain an appropriate attestation, as provided in the Regulations, by the national Office of the Contracting State of which the earlier owner was, at the time of the change of ownership, a national or, if at that time the earlier owner was not a national of a Contracting State, by the national Office of the Contracting State of which, at the said time, the earlier owner was a resident.

(d) [Fee; Publication; Notification] The request shall be subject to the payment of a fee to the International Bureau, and the recording shall be published by that Bureau and notified by it to the earlier owner and the new owner and to the interested designated Offices, as provided in the Regulations.

(2) [Declining of Request] (a) In any of the following cases, the International Bureau shall decline the request and shall notify accordingly the person who has signed it:

(i) where the request does not contain the indication referred to in paragraph (1)(b)(i),

(ii) where the request does not contain the number referred to in paragraph (1)(b)(ii),

(iii) where the request contains no indications concerning the residence or nationality of the new owner, or only such indications as do not permit the conclusion that he is entitled to own international registrations,

(iv) where the request contains no indications concerning the identity and address of the person who has signed it or only such indications as do not permit him to be identified and reached by mail,

(v) where the request does not identify any designated State in respect of which the new owner has acquired ownership,

(vi) where the request does not identify, as provided in the Regulations, any goods and/or services in respect of each of the designated States for which the new owner has acquired ownership,

(vii) where the request is not signed and, if it is signed by the new owner, where it does not contain the attestation, as provided in the Regulations, referred to in paragraph (1)(c),

(viii) where the prescribed fee has not been received.

(b) Where the request has the defect referred to in subparagraph (a)(iv) to the extent that it makes it unlikely for the notification referred to in subparagraph (a) to reach the person who signed the request, the International Bureau is not required to send such a notification.

(3) [Effect] Subject to paragraph (4), any recording effected under paragraph (1) shall, from the date of such recording, have the same effect as if it had been effected in the national register of marks, or any other related register, of each of the designated States to which the request relates.

(4) (a) [Denial of Effect: Grounds] The competent authorities of any designated State may, as far as that State is concerned, deny the effect referred to in paragraph (3) on grounds which, according to its national law, do not allow of changes in ownership or on the ground that the new owner is not entitled to own international registrations.

(b) [Denial of Effect: Evidence] The national law of any Contracting State may provide that the effect referred to in paragraph (3) may, as far as such State is concerned, be denied if, within three months from the date of the publication referred to in paragraph (1)(d) or, where that national law provides for a longer period, within that period, evidence

is not adduced before its national Office which satisfies the conditions of the national law as regards changes in ownership. Any national Office may collect the fee prescribed by its national law in connection with the examination of the said evidence adduced before it.

(c) [Denial of Effect: Notification by Designated State; Recording, Notification, Publication] Where the competent authorities of any designated State deny the effect referred to in paragraph (3), the national Office of that State shall promptly notify the International Bureau accordingly, and that Bureau shall record the denial and effect the corresponding notifications and publication. The details of the procedure are provided in the Regulations.

(5) [Switchover to National Register Where an Owner Cannot Own International Registrations] Where there is a change in ownership other than by contract between the earlier owner and the new owner, and where the new owner is a person who is not entitled to file international applications but is entitled under the national law of any designated State to file applications for the registration of marks in the national register of marks of that State, the new owner may file an application for the registration, in the said national register, of the mark which is registered, and in respect of all or some of the goods and/or services which are listed, in the International Register of Marks in respect of that State. If, within two years from the change in ownership and prior to six months after the expiration of the initial term of the international registration or the then running term of renewal, as the case may be, the new owner files such an application, that application shall be treated in the said State as if it had been filed at the time when the designation of that State took effect.

Article 15

Change in the Name of the Owner of the International Registration

(1) [Recording] Where the owner of the international registration changes his name, such change in the name of the owner shall, on his request, be recorded by the International Bureau.

(2) [Request] (a) Any request may relate to several international registrations of the same owner.

(b) The request shall contain, as provided in the Regulations:

(i) an indication to the effect that the recording by the International Bureau of a change in the name of the owner of the international registration is requested,

(ii) a declaration to the effect that the change in name does not amount to a change in the ownership of the international registration,

(iii) the international registration number of the international registration,

(iv) an indication of the former name and of the new name of the owner of the international registration.

(c) The request shall be signed with the new name of the owner of the international registration.

(d) The request shall be subject to the payment of a fee to the International Bureau.

(3) [*Publication, Notification*] The recording shall be published by the International Bureau and shall be notified to the designated Offices, as provided in the Regulations.

(4) [*Declining of Request*] In any of the following cases, the International Bureau shall decline the request and shall notify accordingly the owner:

(i) where the request does not contain the indications referred to in paragraph (2)(b),

(ii) where the request is not signed as provided in paragraph (2)(c),

(iii) where the prescribed fee has not been received.

(5) [*Effect*] Subject to paragraph (6), any recording effected under paragraph (1) shall, from the date of such recording, have the same effect as if it had been effected in the national register of marks, or any other related register, of each of the designated States.

(6) (a) [*Denial of Effect: Evidence*] The national law of any Contracting State may provide that the effect referred to in paragraph (5) may, as far as such State is concerned, be denied if, within three months from the date of the publication referred to in paragraph (3) or, where that national law provides for a longer period, within that period, evidence is not adduced before its national Office which proves that the natural person or legal entity designated by the former name and the new name is the same.

(b) [*Denial of Effect: Notification by Designated State; Recording, Notification, Publication*] Where the competent authorities of any designated State deny the effect referred to in paragraph (5), the national Office of that State shall promptly notify the International Bureau accordingly, and that Bureau shall record the denial and effect the corresponding notifications and publication. The details of the procedure are provided in the Regulations.

Article 16

Limitation of the List of Goods and/or Services

(1) [*Request; Recording*] On the request of the owner of the international registration, the International Bureau shall record, in respect of any designated State, any limitation of the list of goods and/or services which conforms with the formal concept of limitation as defined in the Regulations.

(2) [*Fees; Publication and Notification*] The request for recording shall be subject to the payment of a fee to the International Bureau, and the recording shall be published by that Bureau and notified to all the interested designated States, as provided in the Regulations.

(3) [*Declining of the Request*] The International Bureau shall decline the recording of any change in the list of goods and/or services which does not conform with the said formal concept of limitation or other requirements of the request, and shall notify the owner of the international registration accordingly, as provided in the Regulations.

(4) [*Effect*] Subject to paragraph (5), any recording effected under paragraph (1) shall, from the date of such recording, have the same effect as if it had been effected in the national register of marks of each of the designated States to which the request relates.

(5) (a) [*Limitation on the Invitation of the Designated Office*] If the national Office or other competent authority of a designated State finds that the limitation requested by the owner of the international registration in respect of that State but declined by the International Bureau is, in fact, a limitation in the sense that the terms proposed in the request relate only to goods and/or services which are covered by the terms appearing in the international registration, the national Office of that State, upon petition by the owner, shall, as provided in the Regulations, invite the International Bureau to record the limitation in respect of that State.

(b) [*Reinstatement of the List of Goods and/or Services on the Invitation of the Designated Office*] If the national Office or other competent authority of a designated State finds that the limitation requested by the owner of the international registration and recorded by the International Bureau is, in fact, not a limitation in the sense indicated in subparagraph (a), the national Office of that State may, as provided in the Regulations and after having heard the owner, invite the International Bureau to reinstate, in respect of that State, wholly or in part, the list of goods and/or services as it was prior to the limitation in question.

(c) [*Procedural Details*] The International Bureau shall proceed as invited and effect, as provided in the Regulations, the corresponding recording, publication and notifications.

Article 17

Term and Renewal of the International Registration

(1) [*Initial Term*] The initial term of any international registration shall be ten years from the international registration date.

(2) [*Renewal*] (a) Any international registration may be renewed in respect of any designated State by its owner for terms of ten years.

(b) Renewal shall prolong the effects provided for in Article 11 in each designated State for the term of the renewal.

(c) Each term of renewal shall start on the day following the day on which the initial term of the international registration or the term of the last renewal expires.

(3) (a) [*Demand*] Renewal shall be the subject of a demand presented to the International Bureau as provided in the Regulations, and shall be subject to the payment of fees, as provided in the Regulations. The demand shall not be presented and the fees shall not be paid earlier than six months before, or later than six months after, the starting date of the term of renewal. If the demand is presented or the fees are received after the starting date of the term of renewal, renewal shall be subject to the payment of an additional fee ("renewal surcharge"), as provided in the Regulations, which shall be paid before the expiration of six months after the starting date of the term of renewal.

(b) [Publication] The International Bureau shall record and publish the renewal and shall notify each designated Office accordingly, as provided in the Regulations.

Article 18

Fees

(1) [Fees Belonging to the International Bureau] (a) The International Bureau shall be entitled to fees in connection with the filing of each international application, request for recording of later designations, demand for renewal, and such other operations and services as are subject, according to this Treaty or the Regulations, to the payment of fees.

(b) The Regulations fix the amounts of the fees referred to in subparagraph (a).

(2) [Fees Belonging to the Contracting States] Each Contracting State shall be entitled to fees ("State fees") in connection with each designation and each renewal concerning it. The State fees shall be either "individual" or "standard," according to the choice of the Contracting State. The choice shall be exercised and applied as provided in the Regulations and shall apply to all designations and renewals concerning the Contracting State.

(3) [Individual State Fees] (a) Subject to subparagraphs (b) to (f), the amounts of individual State fees applicable to any State shall be determined by such State.

(b) The amounts of the individual State fees shall be communicated by the national Office of the Contracting State to the International Bureau in the currency and within the time limits specified in the Regulations. They shall remain applicable for the periods specified in the Regulations.

(c) The amounts of the individual State fees may vary only according to the number of classes to which the goods and/or services listed in respect of that State belong under the International Classification and according to whether the mark is or is not a collective mark or a certification mark.

(d) Any individual State fee shall belong to the designated State in respect of which it was paid and shall be transferred to its national Office as provided in the Regulations.

(e) The amount of the individual State fee to which the Contracting State is entitled in connection with each designation concerning it ("individual State designation fee") shall not exceed the total amount of any filing, class, examination, registration and publication fees which that State prescribes in connection with an application for registration in the national register of marks.

(f) The amount of the individual State fee to which the Contracting State is entitled in connection with each renewal concerning it ("individual State renewal fee") shall not exceed the amount of the renewal fee which that State prescribes for the renewal of a registration in the national register of marks, provided that, if the latter amount relates to a period which is longer or shorter than ten years, the said limit shall be proportionately reduced or proportionately increased, as the case may be.

(4) [Standard State Fees] (a) The amounts of the standard State designation fee and of the standard State renewal fee shall be fixed in the Regulations.

(b) The standard State fees shall belong to the States which have chosen standard State fees. The total amount of such fees collected by the International Bureau for any given calendar year shall be distributed and transferred in the course of the following year to the national Offices of the Contracting States to which the standard State fees apply in proportion to the number of designations and renewals concerning each of them, provided that the number resulting for each Office shall be first multiplied by a coefficient, as fixed in the Regulations, based on the extent of the examination which the national law provides.

(5) [Other Details Concerning Fees] The Regulations give further details concerning fees and provide for the total or partial reimbursement of certain fees in certain circumstances.

Article 19

Certain National Requirements

(1) [Fees] Subject to Article 14(4)(b), no national Office of any designated State shall, unless acting as an independent review authority, require the payment of any fee by the applicant or the owner of the international registration in connection with the obtaining and renewing of the effects, in the said State, of international applications, international registrations, and recordings concerning such applications and registrations.

(2) [Number of Classes and of Goods and/or Services] No designated State may refuse or cancel the effects provided for in Article 11 merely on the grounds that its national law allows the registration of marks only in respect of a limited number of classes or a limited number of goods and/or services.

(3) (a) [Actual Use] The national law of any Contracting State may impose the same conditions as are applicable to marks whose registration is applied for or which are registered in the national register of marks in that State in respect of any requirement that the owner of an international registration use the mark in that State or in any other place, provided that such State shall not refuse under Article 12, cancel under Article 13, or otherwise fail to accord the effects of the international registration as defined in Article 11, on the ground that the mark has not been used at any time prior to the expiration of three years counted from the international registration date or the recording date of the later designation, as the case may be. However, the national law of any Contracting State may provide that any action for infringement based upon an international registration may be started only after the owner of such international registration has commenced the continuing use of the mark in the said State and that any remedy resulting from such action shall relate only to the period after such use has commenced.

(b) [Actual Use: Continued] Where, at the expiration of the three-year time limit referred to in subparagraph (a), the final decision referred to in Article 11(2)(ii) has not been made, the said time limit shall be extended until the expiration of one year counted from the date on which the effect provided for in Article 11(2) does, in fact, come into existence, provided that in no case shall any Contracting State

be required to extend the said three-year time limit by more than two years. This subparagraph shall not apply to any Contracting State whose national law does not permit of such extension. Any such State shall notify the International Bureau of the provisions of its national law in this regard at the time it deposits its instrument of ratification or accession. Each Contracting State shall notify the International Bureau whenever its national law changes in regard to this subparagraph.

(c) [*Actual Use: Continued*] Where prior to the international registration date or the recording date of the later designation, as the case may be, the mark has been registered, in the name of the person who is the owner of the international registration, in the national register of marks of any designated State, or has been the subject on the part of the said person of an application for registration in that register, the proviso of subparagraph (a) and the first sentence of subparagraph (b) shall not apply to the extent that the said registration or application relates to the same goods and/or services as are listed in respect of such State in the international registration. However, where the application for registration in the national register was filed less than three years before the international registration date or the recording date of the later designation, as the case may be, the proviso of subparagraph (a) shall apply, but only during the period between such date and the expiration of the third year counted from the date on which the said application was filed. Where the three-year time limit is extended under subparagraph (b), the preceding sentence shall be applied accordingly. The present subparagraph shall also apply where the earlier registration is one effected in the international register under the Madrid Agreement or the present Treaty.

(d) [*Declaration of Actual Use*] Where one of the conditions of the national law of the designated State referred to in subparagraph (a) consists of a requirement, general in the sense that it is applicable to all marks registered in the national register of marks of that State, that a declaration stating that the mark is or is still in use in that State must be filed with its national Office at certain points in time or in connection with each renewal or other specific event ("routine declaration"), such declaration may, in the form prescribed by the national law of that State or in the form prescribed in the Regulations, be filed with the International Bureau and shall have the same effect as if it had been filed with the national Office of that State on the date on which it was received by the International Bureau. Such declaration shall be promptly forwarded by the International Bureau to the said national Office. The said effect shall not be denied on the ground that the declaration was not accompanied by any required supporting evidence, or that the evidence accompanying it was insufficient, without the said national Office's giving the owner of the international registration an opportunity to adduce or complete before it any required evidence within not less than three months after having notified the said owner or his duly appointed representative that evidence or additional evidence is required. The present subparagraph shall not apply in inter partes and other proceedings in which

the requirement is not a general one in the sense indicated above ("ad hoc requirement").

(e) [*Declaration of Actual Use: Continued*] No requirement referred to in subparagraph (d) shall be applicable prior to the expiration of the time limit under the proviso of subparagraph (a), subject, where applicable, to subparagraph (b), or subparagraph (c).

(4) [*Declaration of Intent To Use the Mark*] (a) Any Contracting State may apply its national law requiring that applicants file a declaration with its national Office to the effect that they intend to use the mark, provided that such requirement shall be considered to have been complied with if a declaration in the form specified in the Regulations to the effect that the applicant or the owner of an international registration intends to use the mark in that State is contained in the international application or request for the recording of the later designation, as the case may be.

(b) The International Bureau shall, as provided in the Regulations, notify the national Office of any designated State in respect of which a declaration under subparagraph (a) was filed with that Bureau of such declaration.

(5) [*Provisions Common to Paragraphs (3) and (4)*] Whenever paragraphs (3) and (4) refer to use of the mark by the applicant or the owner of the international registration, use by a person whose use, under the applicable national law, inures to the benefit of the applicant or the owner shall be sufficient for invoking the benefits provided for in the said paragraphs.

(6) [*Collective Marks and Certification Marks*] Any Contracting State may apply its national law requiring that where the mark is a collective mark or a certification mark the owner thereof must adduce before its national Office certain supporting documents and other evidence, including in particular the bylaws of the association or other entity owning such mark and the rules concerning the control exercised over the use of such mark.

(7) [*Representation*] No designated State shall require that the applicant or the owner of the international registration be represented by any natural person or legal entity located in that State or that, for the purpose of serving notices on such applicant or owner, an address in that State be indicated, except where, in respect of or based on the mark which is the subject of the international application or the international registration, the applicant or owner institutes or defends a proceeding before the national authorities of the said State.

(8) [*Service of Certain Notifications*] (a) The national law of any Contracting State may provide that proceedings before a national authority, including a court, in that State may, for the cancellation in that State pursuant to Article 13 of the effect provided for in Article 11(2), and for no other matter, validly be commenced against the owner of the international registration by means of service of a notification addressed to him at the International Bureau.

(b) The International Bureau shall promptly forward the said notification to the owner of the international regis-

tration by registered airmail accompanied by a postal receipt form (*avis de réception, Rückschein*).

(c) Promptly upon return to the International Bureau of the receipt form, that Bureau shall send to the party instituting the proceeding a copy, certified by that Bureau, of the said receipt form.

(d) If the receipt form showing receipt by the said owner is not received by the International Bureau within one month from the date of its having mailed the notification, the International Bureau shall promptly publish the notification.

(e) Any national law referred to in subparagraph (a) shall provide for a reasonable time limit for the owner of the international registration to respond to the notification and defend his rights in the proceedings. This time limit shall not be less than three months from the date of the notification.

(9) [*Certain Associations*] Article 4(5) shall be without prejudice to the application of the national law in any designated State. However, no such State shall refuse or cancel the effects provided for in Article 11 on the ground that the applicant or the owner of the international registration is an association of the kind referred to in Article 4(5) if, within two months from the date of an invitation addressed to it by the designated Office, the said association files with that Office a list of the names and addresses of all the natural persons or legal entities who or which comprise it, together with a declaration that its members are engaged in a joint enterprise. The said State may, in such a case, consider the said persons or entities as the owners of the international registration standing in the name of the said association.

(10) [*Certification of Documents Issued by the International Bureau*] Where any document issued by the International Bureau bears the seal of that Bureau and the signature of the Director General or a person acting on his behalf, no authority of any Contracting State shall require authentication, legalization or any other certification of such document, seal or signature, by any other person or authority.

Article 20

Recordings Effected by National Offices

(1) [*Notification of the International Bureau*] The national Office of any Contracting State which effects any recording in its own register of marks or in any other related register in respect of matters that may be recorded in the International Register of Marks with regard to any mark which is registered in the International Register of Marks and for which that State is a designated State shall, at the time of effecting such recording and as provided in the Regulations, notify the International Bureau of the said recording unless the recording has been effected pursuant to a notification by the International Bureau to that national Office.

(2) [*Annotation and Publication by the International Bureau*] The International Bureau shall, as provided in the Regulations, make the appropriate annotation in the International Register of Marks and publish a notice concerning such annotation.

(3) [*Lack of Annotation and Publication*] (a) Until the said annotation and publication are effected, any recording referred to in paragraph (1) shall not be effective in respect of any third party unless such third party was actually aware of the subject matter of the said recording.

(b) Notwithstanding subparagraph (a), the national law of any Contracting State may provide that recordings in its own register referred to in paragraph (1) shall be effective in respect of the residents of that State even before the annotation and publication referred to in subparagraph (a) are effected.

Article 21

Preservation of Rights Acquired Through National Registration

(1) [*Rights Preserved*] If, at the international registration date or the recording date of the later designation, as the case may be, the owner of the international registration of a mark owns, in any designated State, a registration of the same mark in the national register of marks ("national registration"), his rights under this Treaty shall be deemed to include in respect of that State all rights, particularly any priority right, existing under the national registration, and, subject to paragraph (4), shall be deemed to continue to include them even where the national registration subsequently expires. The foregoing provision shall apply to the extent that the goods and/or services referred to in respect of the said State in the international registration are, in fact, covered by the list of goods and/or services referred to in the said national registration.

(2) [*Procedural Details*] The applicant or the owner of the international registration of a mark may, as provided in the Regulations, make a declaration stating that he owns national registrations of the same mark in certain designated States and identifying such registrations. The declaration may be included in the international application or the request for the recording of later designations or it may be filed separately. It shall, as provided in the Regulations, be accompanied by a certified copy of each national registration referred to in the declaration. The International Bureau shall record and publish the declaration and shall notify the interested designated Offices accordingly, as provided in the Regulations. Those Offices shall refer to the declaration in their respective national registers of marks in connection with the said national registrations.

(3) [*Immunity Against Refusal*] (a) Where a declaration under paragraph (2) has been notified to the designated Office and the conditions referred to in paragraph (1) are complied with, and to the extent that they are complied with, the effects provided for in Article 11 may not, subject to subparagraph (b), be refused under Article 12.

(b) Where, in any designated State, there is more than one national register of marks or the national register of marks has several parts and the national registration referred to in paragraph (1) exists in a national register or a part of that register which affords less than the highest degree of protection, subparagraph (a) shall apply only if the declaration

under paragraph (2) relates to a registration in the same national register or in the same part of that register.

(4) [*Expiration of the National Registration*] Where the national registration referred to in paragraph (1) expires, the rights under this Treaty shall be deemed to continue to include the rights which existed under the said national registration only where a declaration referred to in paragraph (2) has been filed not later than within one year from the expiration of the said national registration.

Article 22

Preservation of Rights Acquired Through International Registration Under the Madrid Agreement

(1) [*Rights Preserved*] If, at the international registration date or the recording date of the later designation, as the case may be, the owner of the international registration of a mark effected under this Treaty owns, in respect of any designated State, an international registration of the same mark effected under the Madrid Agreement ("Madrid registration"), his rights under this Treaty shall be deemed to include in respect of that State all rights, particularly any priority right, existing under that Madrid registration and, subject to paragraph (4), shall be deemed to continue to include them even where the Madrid registration subsequently expires. The foregoing provision shall apply to the extent that the goods and/or services referred to in respect of the said State in the international registration under this Treaty are, in fact, covered by the list of goods and/or services referred to in respect of the said State in the Madrid registration.

(2) [*Procedural Details*] The applicant seeking the international registration of a mark under this Treaty, or the owner of the international registration of a mark under this Treaty, may, as provided in the Regulations, make a declaration stating that he owns a Madrid registration of the same mark in respect of certain designated States and identifying such registration. The declaration may be included in the international application or the request for the recording of later designations or it may be filed separately. The International Bureau shall record and publish the declaration, as provided in the Regulations.

(3) [*Immunity Against Refusal*] Where a declaration under paragraph (2) has been notified to the designated Office and the conditions referred to in paragraph (1) are complied with, and to the extent that they are complied with, the effects provided for in Article 11 may not be refused under Article 12, unless protection under the Madrid Agreement has been refused or as long as refusal under that Agreement is still possible.

(4) [*Expiration of the Madrid Registration*] Where the Madrid registration referred to in paragraph (1) expires, the rights under this Treaty shall be deemed to continue to include the rights which existed under the Madrid Agreement only where a declaration referred to in paragraph (2) has been filed not later than within one year from the expiration of the said Madrid registration.

Article 23

Preservation of the Right To Use the Madrid Agreement

Where any natural person or legal entity has the right to seek international registration under the Madrid Agreement or to renew his or its international registration under that Agreement, such right shall not be affected by this Treaty in any Contracting State party also to the Madrid Agreement.

Article 24

National Registrations Based on International Registrations

(1) [*Preservation of Rights Acquired Through International Registration*] The owner of the international registration of a mark having the effect provided for in Article 11(2) in any Contracting State may, at any time and with reference to such international registration, apply for the registration of the same mark in the national register of marks of that State, and such national registration shall, provided the requirements of the national law are complied with, be granted in that State, and the rights of the said owner under such national registration shall be deemed to include all rights, particularly any priority right, existing under the said international registration in the said State, even where the international registration subsequently expires in respect of that State. The foregoing provision shall apply to the extent that the goods and/or services listed in the said application are in fact covered by the list of goods and/or services referred to in the said international registration in respect of the said State.

(2) [*Procedural Details*] Until the expiration of the effect referred to in paragraph (1), Article 20(1) and (2) shall apply also in connection with any national registration effected under that paragraph.

Article 25

Regional Marks

(1) [*Designation Having the Effect of an Application for a Regional Mark*] (a) Where the residents or nationals of all Contracting States are given the right under a treaty providing for the registration of regional marks ("regional treaty") to file applications and obtain registrations under such regional treaty by way of this Treaty, any Contracting State party to such regional treaty may declare, as provided in the Regulations, that its designation under this Treaty shall have the same effect as if the mark had been applied for as a regional mark effective in that State.

(b) Where the international application is for a regional mark and, under the regional treaty, the applicant cannot limit his application to some only of the States party to that treaty, designation of one or more of those States shall be treated as designation of all the States party to that treaty, and withdrawal of the designation, or renunciation of the recording of the designation, or cancellation of the designation for any other reason, of any such State shall have the effect of withdrawal, renunciation or cancellation with respect to the designation of all such States.

(2) [Fees] Where the use of this Treaty results in effects under a regional treaty, Article 18(2) to (5) shall apply *mutatis mutandis* and subject to the following provisions:

(i) The beneficiary of the fees referred to in Article 18(2) shall be the intergovernmental authority administering the regional treaty.

(ii) The choice referred to in Article 18(2) shall be exercised by the intergovernmental authority administering the regional treaty.

(iii) Where, under a regional treaty, fees vary according to the number of the States to which the effect of the regional registration extends, the amounts of individual fees may vary not only according to Article 18(3)(c) but also according to the number of the designated States party to the said regional treaty, provided that the total amount referred to in Article 18(3)(e) and the amount of the renewal fee referred to in Article 18(3)(f) shall be that of the fees prescribed in the regional treaty with respect to as many States as are designated States.

Article 26

Representation Before the International Bureau

(1) [Possibility of Representation] Applicants and owners of international registrations may, as provided in the Regulations, be represented before the International Bureau by any natural person or legal entity empowered by them to that effect (hereinafter referred to as "the duly appointed representative").

(2) [Effect of Appointment] Any invitation, notification or other communication addressed by the International Bureau to the duly appointed representative shall have the same effect as if it had been addressed to the applicant or the owner of the international registration. Any application, request, demand, declaration or other document whose signature by the applicant or the owner of the international registration is required in proceedings before the International Bureau, except the document appointing the representative or revoking his appointment, may be signed by his duly appointed representative, and any communication from the duly appointed representative to the International Bureau shall have the same effect as if it had been effected by the applicant or the owner of the international registration.

(3) [Several Applicants or Owners] (a) Where there are several applicants, they shall appoint a common representative. In the absence of such appointment, the applicant first named in the international application shall be considered the duly appointed representative of all the applicants.

(b) Where there are several owners of the international registration, they shall appoint a common representative. In the absence of such appointment, the natural person or legal entity first named among the said owners in the International Register of Marks shall be considered the duly appointed representative of all the owners of the international registration.

(c) Subparagraph (b) shall not apply to the extent that the owners own the international registration in respect of

different designated States, or in respect of different goods and/or services, or in respect of different States and different goods and/or services.

Article 27

Conditions for and Effect of Priority Claim Contained in the International Application or in the Request for the Recording of Later Designations

The conditions for and the effect of any priority claimed in the international application or in the request for the recording of later designations shall be as provided for in respect of marks in Article 4 of the Stockholm (1967) Act of the Paris Convention for the Protection of Industrial Property.

Article 28

International Application as Possible Basis of Priority Claim

(1) [Basis of Claim] Any international application which is regular shall be equivalent to a regular national filing within the meaning of Article 4 of the Stockholm (1967) Act of the Paris Convention for the Protection of Industrial Property and shall be recognized as the basis of a priority claim as provided for in that Act.

(2) [Criterion of "Regular" International Application] For the purposes of paragraph (1), an international application shall be regarded as regular if it is adequate to establish the date on which it was filed with the International Bureau or, where it was filed through the intermediary of a national Office, with that Office.

Article 29

Delay in Meeting Time Limits

(1) [Delays That Must Be Excused by Contracting States] Subject to paragraph (3), any Contracting State shall, as far as that State is concerned, excuse, for reasons admitted under its national law, any delay in meeting any time limit fixed in this Treaty or the Regulations.

(2) [Delays That May Be Excused by Contracting States] Subject to paragraph (3), any Contracting State may, as far as that State is concerned, excuse, for reasons other than those admitted under its national law, any delay in meeting any time limit fixed in this Treaty or the Regulations.

(3) [Delays That Cannot Be Excused] Paragraphs (1) and (2) shall not apply to any delay in meeting any time limit provided for in Article 7(1), Article 7(6)(iii), Article 8(1) and Article 12(2)(a)(i).

(4) [International Bureau] The International Bureau shall not excuse delays by applicants, owners of international registrations or national Offices in meeting any time limit fixed in this Treaty and the Regulations.

Article 30

Correction of Errors of the International Bureau

(1) [*Petition for Redress*] Subject to Article 9, where, in the opinion of the applicant or the owner of the international registration, the International Bureau has, in applying the provisions of this Treaty and the Regulations, made an error which may affect the interests of such applicant or owner in respect of any designated State, the said applicant or owner may, within the time limit fixed in the Regulations, file with the national Office of such State a petition for the purpose of requesting the International Bureau to correct the error in respect of the said State.

(2) [*Redress*] If the national Office or any other competent authority of the said State finds that the International Bureau has in fact made the error which is the subject of the petition, the said national Office shall request the International Bureau to correct that error in respect of that State and the International Bureau shall proceed as requested.

(3) [*Procedure*] The applicant or the owner of the international registration who files a petition under paragraph (1) shall, at the time of filing the petition, transmit a copy of that petition to the International Bureau. If the petition relates to a mark which is already registered in the International Register of Marks, the International Bureau shall, as provided in the Regulations, record and publish the fact that it received a copy of such petition; otherwise it shall keep the said copy in its files.

(4) [*Procedure: Continued*] Where the correction requires a corresponding modification of the International Register of Marks, the International Bureau shall modify that Register accordingly. Furthermore, where the correction affects any information which has been the subject of a publication by the International Bureau, that Bureau shall publish the correction.

Article 31

Notification of Owner of International Registration

Any matter recorded by the International Bureau in respect of an international registration shall be the subject of a corresponding notification to the owner of the international registration. Details may be provided in the Regulations.

CHAPTER II

Administrative Provisions

Article 32

Assembly

(1) [*Composition*] (a) The Assembly shall consist of the Contracting States.

(b) The Government of each Contracting State shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(2) [*Tasks*] (a) The Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Union and the implementation of this Treaty;

(ii) exercise such rights and perform such tasks as are specially conferred upon it or assigned to it under this Treaty;

(iii) give directions to the Director General concerning the preparation for revision conferences;

(iv) review and approve the reports and activities of the Director General concerning the Union, and give him all necessary instructions concerning matters within the competence of the Union;

(v) determine the program and adopt the budget of the Union, and approve its final accounts;

(vi) adopt the financial regulations of the Union;

(vii) establish such committees and working groups as it deems appropriate to facilitate the work of the Union and of its organs;

(viii) determine which States other than Contracting States and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

(ix) decide upon the establishment of any agency of the International Bureau in any place outside Geneva (Switzerland) for the purposes of receiving documents and payments under this Treaty and the Regulations with the same effect as if they had been received by the International Bureau in Geneva;

(x) take any other appropriate action designed to further the objectives of the Union and perform such other functions as are appropriate under this Treaty.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3) [*Representation*] A delegate may represent, and vote in the name of, one State only.

(4) [*Vote*] Each Contracting State shall have one vote.

(5) [*Quorum*] (a) One-half of the Contracting States shall constitute a quorum.

(b) In the absence of the quorum, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the quorum and the required majority are attained through voting by correspondence as provided in the Regulations.

(6) [*Majority*] (a) Subject to Article 34(5)(f), Article 35(2)(b) and (c), and Article 38(2)(b), the decisions of the Assembly shall require a majority of the votes cast.

(b) Abstentions shall not be considered as votes.

(7) [*Sessions*] (a) The Assembly shall meet once in every calendar year in ordinary session upon convocation by the Director General, preferably during the same period and at the same place as the Coordination Committee of the Organization.

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, either on the Director General's own initiative or at the request of one-fourth of the Contracting States.

(8) [*Rules of Procedure*] The Assembly shall adopt its own rules of procedure.

Article 33

International Bureau

(1) *[Tasks]* The International Bureau shall:

(i) perform the administrative tasks concerning the Union; in particular, it shall perform such tasks as are specially assigned to it under this Treaty or by the Assembly;

(ii) provide the secretariat of revision conferences, of the Assembly, of the committees and working groups established by the Assembly, and of any other meeting convened by the Director General and dealing with matters of concern to the Union.

(2) *[Director General]* The Director General shall be the chief executive of the Union and shall represent the Union.

(3) *[Meetings Other Than Sessions of the Assembly]* The Director General shall convene any committee and working group established by the Assembly and all other meetings dealing with matters of concern to the Union.

(4) *[Role of International Bureau in the Assembly and Other Meetings]* (a) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the committees and working groups established by the Assembly, and any other meeting convened by the Director General and dealing with matters of concern to the Union.

(b) The Director General or a staff member designated by him shall be ex officio secretary of the Assembly, and of the committees, working groups and other meetings referred to in subparagraph (a).

(5) *[Revision Conferences]* (a) The Director General shall, in accordance with the directions of the Assembly, make the preparations for revision conferences.

(b) The Director General may consult with intergovernmental and international non-governmental organizations concerning the said preparations.

(c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at revision conferences.

(d) The Director General or a staff member designated by him shall be ex officio secretary of any revision conference.

(6) *[Assistance by National Offices]* The Regulations may specify the services that national Offices shall render in order to assist the International Bureau in carrying out its tasks under this Treaty.

Article 34

Finances

(1) *[Budget]* (a) The Union shall have a budget.

(b) The budget of the Union shall include the income and expenses proper to the Union, its contribution to the budget of expenses common to the Unions, and any sum made available to the budget of the Conference of the Organization.

(c) Expenses not attributable exclusively to the Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the

Unions. The share of the Union in such common expenses shall be in proportion to the interest the Union has in them.

(2) *[Coordination with Other Budgets]* The budget of the Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.

(3) *[Sources of Income]* The budget of the Union shall be financed from the following sources:

(i) fees and other charges due for services rendered by the International Bureau in relation to the Union;

(ii) sale of, or royalties on, the publications of the International Bureau concerning the Union;

(iii) gifts, bequests, and subventions;

(iv) rents, interests, and other miscellaneous income.

(4) (a) *[Self-Supporting Financing]* The amounts of fees and charges due to the International Bureau and the prices of its publications shall be so fixed that they should, under normal circumstances, be sufficient to cover the expenses of the International Bureau connected with the administration of this Treaty.

(b) *[Continuation of Budget; Reserve Fund]* If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, as provided in the financial regulations. If the income exceeds the expenses, the difference shall be credited to a reserve fund.

(5) *[Working Capital Fund]* (a) The Union shall have a working capital fund which shall be constituted by a single payment made by each Contracting State. If the fund becomes insufficient, the Assembly shall arrange to increase it. If part of the fund is no longer needed, it shall be reimbursed.

(b) The amount of the initial payment of each Contracting State to the said fund or of its participation shall be proportionate to the number of international applications which, among the total number of such applications, it is estimated that its residents will file. The participations of all Contracting States in the fund may be revised from time to time by the Assembly to make them correspond to the number of international applications actually filed by the residents of the various States since the date of the initial payments or the last such revision.

(c) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee of the Organization.

(d) If loans from the reserve fund permit the constitution of a working capital fund that is sufficient, the Assembly may suspend the application of subparagraphs (a), (b) and (c).

(e) Any reimbursement under subparagraph (a) shall be proportionate to the amounts paid by each Contracting State, taking into account the dates at which they were paid.

(f) Any decision under subparagraphs (a) to (d) shall require two-thirds of the votes cast.

(6) *[Advances by Host Country]* (a) In the headquarters agreement concluded with the State on the territory of which the Organization has its headquarters, it shall be provided

that, whenever the working capital fund is insufficient, such State shall grant advances. The amount of those advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such State and the Organization. As long as it remains under the obligation to grant advances, such State shall have an ex officio seat in the Assembly if it is not a Contracting State.

(b) The State referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(7) [Auditing of Accounts] The auditing of the accounts shall be effected by one or more of the Contracting States or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

Article 35 Regulations

(1) [Adoption of Regulations] The Regulations adopted at the same time as this Treaty are annexed to this Treaty.

(2) [Amending the Regulations] (a) The Assembly may amend the Regulations. Amendments may consist also of new provisions added to the Regulations concerning:

(i) matters in respect of which this Treaty expressly refers to the Regulations or expressly provides that they are or shall be prescribed,

(ii) any administrative requirements, matters or procedures,

(iii) any details useful in the implementation of this Treaty.

(b) Subject to subparagraphs (c) and (d), the amendment of the Regulations shall require two-thirds of the votes cast.

(c) The amendment of any provision of the Regulations affecting the amount of the fees referred to in Article 18(2), as well as the distribution among the national Offices and the transfer to them of such fees, shall require three-fourths of the votes cast. Where the amendment relates to fees referred to in Article 18(2) but those fees are fees to which only some of the Contracting States are entitled, only the Contracting States entitled thereto shall, for the purposes of the quorum, be considered Contracting States, and only they shall have the right to vote.

(d) The amendment of any provisions of the Regulations concerning declarations of intent to use the mark and declarations of actual use of the mark shall require that it be accepted by a majority of two-thirds of the votes cast and that no Contracting State whose national law allows or requires the filing of such declarations vote against the proposed amendment.

(3) [Conflict Between the Treaty and the Regulations] In the case of conflict between the provisions of this Treaty and those of the Regulations, the former shall prevail.

Article 36

Search Service

(1) [Tasks] The International Bureau shall maintain a Service whose task shall be to search for anticipations among marks registered under this Treaty, and, to the extent authorized by the Assembly, other marks as well.

(2) [Fees; Availability] Searches shall be made on request and shall be subject to the payment of fees fixed under the Regulations. The Service shall be at the disposal of any Government, national Office, other legal entity, or natural person.

(3) [Self-Supporting Financing] The amounts of the fees referred to in paragraph (2) shall be so fixed that they should be sufficient to cover the expenses of the International Bureau connected with the Service.

CHAPTER III

Revision and Amendment

Article 37

Revision of the Treaty

(1) [Revision Conferences] This Treaty may be revised from time to time by conferences of the Contracting States.

(2) [Convocation] The convocation of any revision conference shall be decided by the Assembly.

(3) [Provisions That Can Be Amended Also by the Assembly] The provisions referred to in Article 38(1)(a) may be amended either by a revision conference or according to Article 38.

Article 38

Amendment of Certain Provisions of the Treaty

(1) [Proposals] (a) Proposals for the amendment of the length of any time limit fixed in Chapter I of this Treaty, other than those referred to in Articles 12(2) and 19(3), or for any amendment to Articles 32(5) and (7), 33, 34 and 36, may be initiated by any Contracting State or by the Director General.

(b) Such proposals shall be communicated by the Director General to the Contracting States at least six months in advance of their consideration by the Assembly.

(2) [Adoption] (a) Amendments to the provisions referred to in paragraph (1) shall be adopted by the Assembly.

(b) Adoption shall require three-fourths of the votes cast, provided that adoption of any amendment of the length of the time limit fixed in Articles 7(1), 7(3)(c), 7(6)(iii) and 8(1) shall require that no Contracting State vote against the proposed amendment.

(3) [Entry Into Force] (a) Any amendment to the provisions referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the Contracting States members of the Assembly at the time the Assembly adopted the amendment.

(b) Any amendment to the said Articles thus accepted shall bind all the Contracting States which were Contracting States at the time the amendment was adopted by the Assembly, provided that any amendment increasing the financial obligations of the said Contracting States shall bind only those which have notified their acceptance of such amendment.

(c) Any amendment which has been accepted and which has entered into force in accordance with subparagraph (a) shall bind all States which become Contracting States after the date on which the amendment was adopted by the Assembly.

CHAPTER IV

Final Provisions

Article 39

Becoming Party to the Treaty

(1) [Ratification, Accession] Any State member of the International Union for the Protection of Industrial Property may become party to this Treaty by:

- (i) signature followed by the deposit of an instrument of ratification, or
- (ii) deposit of an instrument of accession.

(2) [Deposit of Instrument] Instruments of ratification or accession shall be deposited with the Director General.

(3) [Reference to Other States] (a) Any instrument of ratification or accession may be accompanied by a declaration to the effect that it shall be considered to have been deposited only when another State, or either one of two other States, or both of two other States, specified by name, shall have deposited instruments of ratification or accession. The instrument of ratification or accession of any State having made such a declaration shall be considered to have been deposited

(i) on the day on which the specified State, or one of the two specified States, or the second specified State, as the case may be, deposits its instrument of ratification or accession,

(ii) where the instrument of ratification or accession of any specified State itself is accompanied by a declaration concerning other States, on the day on which the instrument of ratification or accession of the said specified State is to be considered to have been deposited.

(b) Any declaration made under subparagraph (a) may be withdrawn at any time or, if it was made in respect of two States, may be limited to one of them. The instrument of ratification or accession of any State withdrawing its declaration shall be considered to have been deposited on the day on which the withdrawal is notified to the Director General, whereas the instrument of ratification or accession of any State limiting its declaration shall be considered to have been deposited on the day on which the remaining State deposits its instrument of ratification or accession. If the instrument of ratification or accession of the remaining State has already been deposited, the instrument of ratification or accession of the State limiting its declaration shall be considered to have

been deposited on the day on which the limitation is notified to the Director General.

(4) [Certain Territories] (a) The provisions of Article 24 of the Stockholm (1967) Act of the Paris Convention for the Protection of Industrial Property shall apply to this Treaty.

(b) Subparagraph (a) shall in no way be understood as implying the recognition or tacit acceptance by a Contracting State of the factual situation concerning a territory to which this Treaty is made applicable by another Contracting State by virtue of the said subparagraph.

Article 40

Transitional Provisions

(1) [Declaration by Certain Developing Countries] Any State party to the Paris Convention for the Protection of Industrial Property but not party to this Treaty which, in conformity with the established practice of the General Assembly of the United Nations, is regarded as a developing country may make a declaration addressed to the Director General stating that it wishes to avail itself of the right provided for in paragraph (2) and that it intends to become party to this Treaty at the latest within two years from the date on which that right, according to the applicable provisions of paragraphs (5) to (8), ceases to be effective in respect of that State.

(2) [Effect of Declaration] Residents and nationals of any State having made a declaration according to paragraph (1) shall, notwithstanding Article 4(1), have the right to file international applications and to own international registrations under this Treaty.

(3) [Time of Filing Declaration] The declaration referred to in paragraph (1) shall be filed with the Director General at any time before June 12, 1978.

(4) [Commencement of Effect] If filed before the entry into force of this Treaty according to Article 41(1), the declaration referred to in paragraph (3) shall become effective on the date of the said entry into force. If filed after such entry into force, the said declaration shall become effective three months after the date of its filing.

(5) [Expiration of Effect] Subject to paragraphs (6) to (8), the right provided for in paragraph (2) shall be effective until the expiration of whichever of the following two periods expires later:

(i) a period of ten years from the date (June 12, 1973) of the signature of this Treaty,

(ii) a period of five years from the entry into force of this Treaty according to Article 41(1).

(6) [Possible Prolongation of Effect] (a) The period referred to in paragraph (5) may be prolonged twice for periods of five years each by decisions of the Special Conference as defined in subparagraph (b) in respect of those States having made the declaration referred to in paragraph (1) whose residents or nationals have filed an average of not more than two hundred international applications per year during the three consecutive years, as defined in subparagraph (d).

(b) The Special Conference shall consist of the States which, at the time it meets, are Contracting States and those States having made a declaration under paragraph (1) which fulfill, in respect of the number of international applications, the conditions set forth in subparagraph (a).

(c) The decision of the Special Conference shall require a simple majority of the votes cast. The said Conference shall meet upon convocation by the Director General during the year preceding the year in which:

(i) the period referred to in paragraph (5) expires, and

(ii) the first five-year period referred to in subparagraph (a) expires if prolongation for that period had been decided.

(d) The three consecutive years referred to in subparagraph (a) shall, in respect of each of the two possible decisions, be the fourth, third and second calendar years before the year in which the decision is made.

(7) [*Possible Further Prolongation of Effect*] The Assembly, in exceptional cases and upon request, may decide to prolong for two further periods of five years each the application of the right under paragraph (2) in respect of any State which, at the time the decision is made, benefits from the said right and which is then regarded as one of the least developed among the developing countries.

(8) [*Termination of Effect for Special Reasons*] Notwithstanding paragraphs (4) to (7), the right provided for in paragraph (2) shall cease to exist on the last day of the calendar year which follows the year in which any State having made a declaration under paragraph (1):

(i) ceases to be regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations, or

(ii) denounces the Paris Convention for the Protection of Industrial Property.

Article 41

Entry Into Force of the Treaty

(1) [*Initial Entry Into Force*] This Treaty shall enter into force six months after five States have deposited their instruments of ratification or accession.

(2) [*States Not Covered by the Initial Entry Into Force*] Any State which is not among those referred to in paragraph (1) shall become bound by this Treaty three months after the date on which it has deposited its instrument of ratification or accession.

Article 42

Reservations to the Treaty

Subject to Article 46(2), no reservations to this Treaty are permitted.

Article 43

Denunciation of the Treaty

(1) [*Notification*] Any Contracting State may denounce this Treaty by notification addressed to the Director General.

(2) [*Effective Date*] Denunciation shall take effect one year after the day on which the Director General has received the notification.

(3) [*Moratorium on Denunciation*] The right of denouncing this Treaty provided for in paragraph (1) shall not be exercised by any Contracting State before the expiration of five years from the date on which it becomes bound by this Treaty.

(4) [*Continuation of the Effects of the Treaty*] (a) The effects of this Treaty on any mark enjoying the benefits of this Treaty on the day preceding the day on which the denunciation by any Contracting State takes effect shall continue in that State until the expiration of the initial or renewal term which was running on that date.

(b) Where the right to own the international registration of a mark is based on the owner's being a resident or national of the Contracting State referred to in subparagraph (a), the benefits of this Treaty shall, in all designated States, continue until the day on which the period referred to in subparagraph (a) expires in respect of that mark.

Article 44

Signature and Languages of the Treaty

(1) [*Original Texts*] This Treaty shall be signed in a single original in the English and French languages, both texts being equally authentic.

(2) [*Official Texts*] Official texts shall be established by the Director General, after consultation with the interested Governments, in the German, Italian, Japanese, Portuguese, Russian and Spanish languages, and such other languages as the Assembly may designate.

(3) [*Time Limit for Signature*] This Treaty shall remain open for signature at Vienna until December 31, 1973.

Article 45

Depositary Functions

(1) [*Deposit of the Original Texts*] The original of this Treaty, when no longer open for signature, shall be deposited with the Director General.

(2) [*Certified Copies*] The Director General shall transmit two copies, certified by him, of this Treaty to the Governments of the States party to the Paris Convention for the Protection of Industrial Property and, on request, to the Government of any other State.

(3) [*Registration of the Treaty*] The Director General shall register this Treaty with the Secretariat of the United Nations.

(4) [*Amendments*] The Director General shall transmit two copies, certified by him, of any amendment to this Treaty to the Governments of the Contracting States and, on request, to the Government of any other State.

Article 46**Settlement of Disputes**

(1) [*International Court of Justice*] Any dispute between two or more Contracting States concerning the interpretation or application of this Treaty or the Regulations, not settled by negotiation, may, by any one of the States concerned, be brought before the International Court of Justice by application in conformity with the Statute of the Court, unless the States concerned agree on some other method of settlement. The Contracting State bringing the dispute before the Court shall inform the International Bureau; the International Bureau shall bring the matter to the attention of the other Contracting States.

(2) [*Reservation*] Each Contracting State may, at the time it signs this Treaty or deposits its instrument of ratification or accession, declare by notification deposited with the Director General that it does not consider itself bound by paragraph (1). With regard to any dispute between any Contracting State having made such a declaration and any other Contracting State, paragraph (1) shall not apply.

(3) [*Withdrawal of Reservation*] Any Contracting State having made a declaration in accordance with paragraph (2) may, at any time, withdraw its declaration by notification addressed to the Director General.

Article 47**Notifications**

The Director General shall notify the Governments of the States party to the Paris Convention for the Protection of Industrial Property of:

- (i) signatures under Article 44;
- (ii) deposits of instruments of ratification or accession under Article 39(2) and of any declaration accompanying them under Article 39(3)(a) and any withdrawal or limitation of such declarations made under Article 39(3)(b);
- (iii) the date of entry into force of this Treaty under Article 41(1) and any amendment under Article 38(3)(a);
- (iv) denunciations received under Article 43;
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Rule 1 Abbreviated Expressions

1.1 "Treaty"

In these Regulations, the word "Treaty" means the Trademark Registration Treaty.

1.2 "Chapter" and "Article"

In these Regulations, the words "Chapter" and "Article" refer to the specified Chapter or Article of the Treaty.

1.3 Associations

In these Regulations, references to legal entities where such references concern them in their capacity of applicants or owners of international registrations shall be construed as references also to associations referred to in Article 4(5).

1.4 "Gazette"

In these Regulations, the word "Gazette" means the official Gazette of the International Bureau referred to in Article 2(ix).

1.5 "Table of Fees"

In these Regulations, the words "Table of Fees" mean the table of fees annexed hereto.

Rules Concerning Chapter I

Rule 2

Representation Before the International Bureau

2.1 Number of Duly Appointed Representatives

(a) The applicant and the owner of the international registration may appoint only one representative.

(b) Where several natural persons or legal entities have been indicated as representatives by the applicant or the owner of the international registration, the natural person or legal entity first mentioned in the document in which they are indicated shall be regarded as the only duly appointed representative.

(c) Where the representative is a partnership or firm composed of attorneys or patent or trademark agents, it shall be regarded as one representative.

2.2 Form of Appointment

(a) A representative shall be regarded as a "duly appointed representative" if his appointment complies with the prescriptions of paragraphs (b) to (e).

(b) The appointment of any representative shall require:

(i) that his name appear as that of a representative in the international application and that such application bear the signature of the applicant, or

(ii) that a separate power of attorney (i. e., a document appointing the representative), signed by the applicant or the owner of the international registration, be filed with the International Bureau.

(c) Where there are several applicants or owners of the international registration, the document containing or constituting the appointment of their common representative shall be signed by all of them.

(d) Any document containing or constituting the appointment of a representative shall indicate his name and his address. Where the representative is a natural person, his name shall be indicated by his family name and given name(s), the family name being indicated before the given name(s). Where the representative is a legal entity or a partnership or firm of attorneys or patent or trademark agents, "name" shall mean the complete name of the legal entity or partnership or firm. The address of the representative shall be indicated in the same manner as that provided for in respect of the applicant in Rule 5.2(c).

(e) The document containing or constituting the appointment shall contain no words which, contrary to Article 26(2), would limit the powers of the representative, in particular by indicating a time limit or event after which the appointment would expire, by excluding certain matters

from the powers of the representative, or by specifying some only of the powers which any representative has under the said Article.

(f) Where the appointment does not comply with the requirements referred to in paragraphs (b) to (e), it shall be treated by the International Bureau as if it had not been made, and the applicant or the owner of the international registration as well as the natural person, the legal entity, the partnership or firm which was indicated as the representative in the purported appointment shall be informed of this fact by the International Bureau.

(g) The Administrative Instructions shall provide recommended wording for the appointment.

2.3 Revocation or Renunciation of Appointment

(a) The appointment of any representative may be revoked at any time by the natural person who or legal entity which has appointed that representative. The revocation shall be effective even if only one of the natural persons who or legal entities which have appointed the representative revokes the appointment.

(b) Revocation shall require a written document signed by the natural person or the legal entity referred to in the preceding paragraph. It shall be effective, as far as the International Bureau is concerned, as from the date of the receipt of the said document by that Bureau.

(c) The appointment of a representative as provided in Rule 2.2 shall be regarded as the revocation of any earlier appointment of any other representative. The appointment shall preferably indicate the name of the other earlier appointed representative.

(d) Any representative may renounce his appointment through a notification signed by him and addressed to the International Bureau.

2.4 General Powers of Attorney

The appointment of a representative in a separate power of attorney (i. e., a document appointing the representative) may be general in the sense that it relates to more than one international application and more than one international registration in respect of the same natural person or legal entity. The identification of such applications and registrations, as well as other details in respect of such general power of attorney and of its revocation or renunciation, shall be provided in the Administrative Instructions. The Administrative Instructions may provide for a fee payable in connection with the filing of general powers of attorney.

2.5 Substitute Representative

(a) The appointment of the representative referred to in Rule 2.2(b) may indicate also one or more natural persons as substitute representatives.

(b) For the purposes of the second sentence of Article 26(2), substitute representatives shall be considered as representatives.

(c) The appointment of any substitute representative may be revoked at any time by the natural person who or legal entity which has appointed the representative or by the representative. Revocation shall require a written document signed by the said natural person, legal entity or representative. It shall be effective, as far as the International Bureau is concerned, as from the date of the receipt of the said document by that Bureau.

Rule 3

International Register of Marks

3.1 Contents of the International Register

The International Register of Marks shall contain, in respect of each mark registered therein:

(i) all the indications that must or may be furnished under the Treaty or these Regulations, and that have in fact been furnished, to the International Bureau, and, where relevant, the date on which such indications were received by that Bureau,

(ii) the amount of all fees received and the date or dates on which they were received by the International Bureau,

(iii) the number and date of the international registration and the numbers, if any, and the dates of all recordings relating to that registration.

3.2 Keeping of the International Register

The Administrative Instructions shall regulate the establishment of the International Register of Marks, and, subject to the Treaty and these Regulations, shall specify the form in which it shall be kept and the procedure which the International Bureau shall follow for inscribing recordings therein and for preserving it from loss or other damage.

Rule 4

Applicant

4.1 The Same Applicant for All Designated States

(a) The applicant shall be the same for the purposes of all the designated States.

(b) Where the international application, as filed, does not indicate the same applicant for the purposes of all the designated States, that application shall be treated as if only the State first mentioned therein, and any other State for the purposes of which the same applicant is indicated as for the said first-mentioned State, had been designated.

Rule 5

Mandatory Contents of the International Application

5.1 Indication that the International Application Is Filed Under the Treaty

The indication referred to in Article 5(1)(a)(i) shall be worded as follows: "The undersigned requests that the mark herein reproduced be registered in the International Register of Marks established under the Trademark Registration Treaty"; or it shall consist of a statement to the same effect.

5.2 Indications Concerning the Applicant

(a) The applicant's identity shall be indicated by his name. If the applicant is a natural person, his name shall be indicated by his family name and given name(s), the family name being indicated before the given name(s). If the applicant is a legal entity, its name shall be indicated by the full, official designation of the said entity.

(b) The applicant's residence and nationality shall be indicated by the name(s) of the State(s) of which he is a resident and of which he is a national.

(c) The applicant's address shall be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address and shall, in any case, consist of all the relevant administrative units up to, and including, the house number, if any. Where the national law of the designated State does not require the indication of the house number, failure to indicate such number shall have no effect in that State. Any telegraphic and teletype address and telephone number that the applicant may have should preferably be indicated. For each applicant, only one address shall be indicated; if several addresses are indicated, only the one first mentioned in the international application shall be considered.

5.3 Reproduction of the Mark; Color; Transliteration

(a) Where the mark consists only of letters of the Latin alphabet, Arabic or Roman numerals, and punctuation signs usual in connection with the Latin alphabet, and the applicant does not wish to claim any special graphic feature, the mark may be reproduced, for example by typing the letters, numerals and signs, on the sheet itself on which the international application appears. The use of small letters and capital letters shall be permitted, and shall be followed in the publications of the International Bureau.

(b) In cases other than that referred to above, the mark shall be reproduced on a sheet of paper of A4 size (29.7 cm × 21 cm), separate from the sheet on which the text of the international application appears, and shall be attached to the latter sheet. The reproduction of the mark itself on the separate sheet shall not occupy a space larger than 10 centimeters horizontally and 10 centimeters vertically. The reproduction of the mark on the separate sheet shall be of a quality admitting of direct reproduction by photography and printing processes. The separate sheet shall indicate the name and address of the applicant.

(c) Where color is claimed, the international application shall contain a statement to that effect and shall be accompanied by

(i) either a reproduction of the mark in color in one copy satisfying the requirements set forth in paragraph (b),

(ii) or a reproduction of the mark in color in the number of copies fixed in the Administrative Instructions and a reproduction of the mark in black and white in one copy containing a description of the colors in words and signs as specified in the Administrative Instructions, all copies satisfying the requirements set forth in paragraph (b).

(d) Where the mark or a certain part of it is three-dimensional, the international application and the separate sheet containing the reproduction of the three-dimensional feature shall contain an indication to that effect.

(e) Where the mark is intended to be used, or also to be used, as a sound mark, the international application and any separate sheet containing the reproduction of the mark shall contain an indication to that effect.

(f) Where the mark consists of or contains matter in script other than Latin script or numbers expressed in forms other than Arabic or Roman, the international application shall also contain a transliteration of such matter in Latin script and Arabic numerals; the transliteration shall follow the English pronunciation if the international application is in English, and the French pronunciation if it is in French. If the International Bureau finds that such transliteration is incorrect or is missing and it is equipped to effect itself the said transliteration, it shall do so. In the latter case, however, it shall notify the applicant of its transliteration and invite him to make comments on it within one month from the date of the notification, and shall not proceed with the international registration before the expiration of the said period of one month.

5.4 List of Goods and/or Services

(a) Each of the groups of terms pertaining to the same class of the International Classification shall be preceded by an indication of the number of the class, and the various groups shall follow in the numerical order of the corresponding classes.

(b) If, in the list of goods and/or services contained in the international application as filed, the terms are not or not properly grouped as provided in Article 5(1)(a)(iv), the International Bureau shall, after having notified the applicant of its intention to do so and allowing him one month from the date of the notification to react to such notification, classify each term as required and constitute the required groups. If any of the terms does not permit classification in one class only of the International Classification, it shall be classified in each of the applicable classes.

(c) If the International Bureau finds that any term is incomprehensible, it shall notify the applicant of its finding and allow him one month from the date of the notification to submit either arguments to the effect that the term is comprehensible or a request that the incomprehensible term be deleted. If, on the basis of the said arguments or other considerations, the International Bureau finds that the term is comprehensible, it shall treat it according to its comprehended meaning. Otherwise it shall delete it *ex officio*.

(d) The list of goods and/or services shall be the same for the purposes of all States designated in the international application as filed or as limited under Article 7(4)(b). Where the international application as filed or as limited under Article 7(4)(b) indicates different goods and/or services in respect of different designated States, that application shall be treated as if only the State first mentioned therein, and any other States for the purposes of which the same list of goods and/or services is indicated as for the said first-mentioned State, had been designated.

5.5 Identification of States

(a) Identification of any State shall consist in writing its name in the international application in a manner sufficiently clear for the purposes of identification.

(b) The identification of any designated State which is not a Contracting State shall be treated as if such State had not been identified.

5.6 Choice Between National and Regional Marks

(a) The availability of any choice referred to in Article 5(1)(a)(vi) shall be notified by the interested Contracting State to the International Bureau, and that Bureau shall publish a corresponding announcement.

(b) The choice referred to in Article 5(1)(a)(vi) shall be indicated by the words "national mark desired" or "regional mark desired," respectively, or by other words to that effect, appearing next to the name of the designated State to which the choice applies.

5.7 Collective Marks and Certification Marks

The indication referred to in Article 5(1)(a)(vii) shall consist of the words "collective mark desired" or "certification mark desired," respectively, or other words to that effect, appearing next to the name of the designated State to which the indication applies.

5.8 Application Filed Through the Intermediary of a National Office

(a) The indication referred to in Article 5(3)(b) shall be worded as follows:

"The ... (1) certifies that the present international application was filed with it on ... (2)."

(1) Indicate the name of the national Office. (2) Indicate the date.

(b) The national Office of any Contracting State whose national law provides that international applications of residents of that State may be filed through the intermediary of the national Office of the said State shall, at least once a week, send to the International Bureau a note containing the following indications concerning each of the international applications filed with it since the sending of the last such note:

- (i) the name of the applicant,
- (ii) a reproduction of the mark,
- (iii) the date on which the international application was filed with that Office,
- (iv) the date on which the international application was mailed to the International Bureau.

(c) The notes referred to in paragraph (b) shall be numbered consecutively.

(d) If the International Bureau does not receive any of the international applications listed in any note within 15 days from the date on which it received such note, it shall inform the national Office accordingly.

Rule 6

Optional Contents of the International Application

6.1 Naming of a Representative

The international application may indicate a representative.

6.2 Claiming of Priority

(a) The declaration referred to in Article 5(1)(b) shall consist of a statement to the effect that the priority of an earlier application is claimed and shall indicate:

(i) where the earlier application is an application filed for the registration of a mark in the register of marks of a given country, the country in which it was filed; where the earlier application is an international application filed under the Treaty, a State designated therein; where the earlier application is an application for a regional mark, the authority with which it was filed and a State for which it was filed;

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

(iii) the number allotted to the earlier application.

(b) If the declaration does not indicate the country or State, and the date, referred to in paragraph (a)(i) and (ii), the International Bureau shall treat the declaration as if it had not been made.

(c) If the application number referred to in paragraph (a)(iii) is not indicated in the declaration but is furnished by the applicant or the owner of the international registration to the International Bureau prior to the expiration of the 10th month from the filing date of the said application, it shall be considered to have been included in the declaration and shall be published by the International Bureau.

6.3 Declaration of Intent To Use the Mark

(a) Any declaration made under Article 19(4)(a) shall consist of the following statement:

"The undersigned applicant declares that he (it) intends to use the mark which is the subject of this international application himself (itself) and/or by and through persons whose use inures to his (its) benefit in commerce with and/or on the territory of ... (1) on and/or in connection with the goods and/or services listed in this international application."

(1) If the declaration relates to all the States designated in the international application, insert "each of the States designated in this application"; otherwise, indicate those of the States designated in respect of which the declaration is made.

(b) It shall depend on the national law of each designated State whether any declaration to the same effect as but worded differently than in paragraph (a) shall produce the effect provided for in Article 19(4)(a) in that State.

6.4 Declaration of Actual Use

In respect of any designated State, the following statement, signed by the applicant, may be made and attached to the international application:

"The undersigned applicant declares that the following mark ... (1) which is the subject of the international application to which this declaration is attached is now in use by and through ... (2) in commerce with and/or on the territory of ... (3) on or in connection with the following goods and/or services listed in respect of such State ... (4); that such use commenced on ... (5); and that the mode and manner in which the mark is used is:

- on labels or tags affixed to and/or containers for the goods, as evidenced by the attached specimen(s) or facsimile(s) (6);
- on displays which are associated with the goods, as evidenced by the attached specimen(s) or facsimile(s) (6);
- in the case of services, in advertising of such services, as evidenced by the attached specimen(s) or facsimile(s) (6);
- other (7)."

(1) Reproduce the mark. (2) Insert "the undersigned applicant" and/or, if applicable, the name and address of the person or persons whose use of the mark inures to the benefit of the applicant in the State. (3) Insert name of State. (4) Insert "all" or indicate the particular goods and/or services on or in connection with which the mark is used. (5) Insert the date of commencement of the continuing use of the mark, including, where different dates are applicable to different goods and/or services, the particular goods and/or services to which each such date relates. (6) The inclusion of specimens or facsimiles may be dispensed with where the declaration is made in respect of a State whose national law does not require that specimens or facsimiles be attached to routine declarations of actual use. (7) Recite sufficient facts in addition to, or in lieu of, checking one or more of the above boxes as to sales or advertising, or both, to show that the mark is in current use.

6.5 Declarations Under Articles 21(2) and 22(2)

(a) Any declaration under Article 21(2), where included in the international application, shall:

(i) specify the designated State or States in respect of which it is made,

(ii) contain the statement that the applicant owns a national registration or national registrations of the same mark in the said State or States,

(iii) indicate, in respect of each such national registration, its number.

(b) Any declaration under Article 22(2), where included in the international application, shall:

(i) specify the designated State or States in respect of which it is made,

(ii) contain the statement that the applicant owns a Madrid registration of the same mark in respect of the said State or States,

(iii) indicate the relevant registration number under the Madrid Agreement.

6.6 Option Under Article 11(3)

The indication referred to in Article 11(3) shall be effected by identifying the appropriate national register or the appropriate part of the

national register (for example, "Supplemental Register" or "Part B Register").

6.7 Trade or Business of the Applicant

The applicant may indicate in the international application the trade or business in which he is engaged.

6.8 Translation of the Mark

If the mark consists of or contains one or more words which can be translated into the language of the international application, that application may contain such translation.

Rule 7 Languages

7.1 Language of the International Application

The international application shall be in the English or in the French language.

7.2 Language of the Request for Recording of Later Designations

The request for the recording of any later designation shall be in the same language as that in which the international application was filed.

7.3 Language of Registrations, Recordings, Annotations and Communications

(a) Registrations, recordings and annotations by the International Bureau shall be in the same language as that in which the international application was filed.

(b) Any notification or other communication addressed by the International Bureau to the applicant or the owner of the international registration and any request, demand, declaration or other communication addressed by the applicant or the owner of the international registration to the International Bureau shall be in the same language as that in which the international application was filed.

(c) Notifications by the national Offices to the International Bureau, and letters or other written communications from the national Offices to the International Bureau, shall be in the English or in the French language, it being understood that copies of papers filed by a third party in the case of an opposition proceeding attached to any notice of possible refusal and any copy referred to in Rule 20.3(a)(iii) shall be in the language in which such papers or copy were filed with the national Office.

(d) Letters from the International Bureau to any national Office shall be in English or French according to the wish of the national Office; any matter in such letters quoted from the International Register of Marks shall be in the language in which such matter appears in that Register.

(e) Where the International Bureau is under the obligation to forward to the applicant or the owner of the international registration any of the communications referred to in paragraph (c), it shall forward them in the language in which it received them.

Rule 8 Form of the International Application

8.1 Printed Forms

(a) The international application shall be made on the printed form referred to in paragraph (b) or on a paper identical, for all practical purposes, with that form as to size, content and layout.

(b) The International Bureau shall furnish free of charge, on request, to prospective applicants, attorneys, patent or trademark agents, and to the national Offices, printed forms for international applications. Such forms shall be established in the English language, in the French language, and in both of those languages.

(c) The form shall be filled in preferably by typewriter and shall be easily legible.

8.2 Copies; Signature

(a) Subject to Rule 5.3(c)(ii), the international application, including the reproduction of the mark and any attachments, shall be filed in one copy.

(b) The international application shall be signed by the applicant.

8.3 No Additional Matter

(a) The international application shall not contain any matter, and shall not be accompanied by any document, other than those prescribed or permitted by the Treaty or these Regulations.

(b) If the international application contains matter other than that prescribed or permitted, the International Bureau shall delete it *ex officio*; and if the international application is accompanied by any document other than those prescribed or permitted, the International Bureau shall treat such document as if it had not been transmitted to it and shall return the said document to the applicant.

Rule 9 Fees Payable With the Filing of the International Application

9.1 International Application Fee and State Designation Fees

(a) The fees payable with the international application shall be:

(i) an "international application fee," and, where Rule 5.3(c)(i) applies, a color reproduction fee,

(ii) in respect of each designated State, the individual State designation fee or the standard State designation fee, as the case may be.

(b) The amounts of the international application fee, the color reproduction fee and the standard State designation fee are indicated in the Table of Fees.

(c) The amounts of the individual State designation fees concerning the various Contracting States shall be published by the International Bureau each year in the month of August. The amounts so published shall be applicable as the individual State designation fees from January 1 to December 31 of the year following the year in which they are published.

Rule 10 Mandatory Contents of the Request for the Recording of Later Designations

10.1 Indication that the Request is for the Recording of Later Designations

The indication referred to in Article 6(2)(a)(i) shall be worded as follows: "The undersigned applicant/owner of the international registration identified herein requests the recording in the International Register of Marks of the following later designations made under the Trademark Registration Treaty"; or it shall consist of a statement to the same effect.

10.2 Indications Concerning the Applicant or the Owner of the International Registration

Rule 5.2 shall apply, *mutatis mutandis*, in the case of Article 6(2)(a)(ii).

10.3 Identification of the International Application or International Registration

(a) The international application shall be identified by a copy of the same and, where it was filed direct with the International Bureau, the date on which it was filed with or mailed to the International Bureau or, where it was filed through the intermediary of a national Office, the name of that Office and the date on which it was received by or mailed to the said Office.

(b) The international registration shall be identified by its international registration number and date.

10.4 Identification of the Later Designated States

Rule 5.5 shall apply, *mutatis mutandis*, in the case of Article 6(2)(a)(iv).

10.5 Indication of the Choice Between National Mark and Regional Mark

The choice referred to in Article 6(2)(a)(v) shall be indicated by the words "national mark desired" or "regional mark desired," respectively, or by other words to that effect, appearing next to the name of the designated State to which the choice applies.

10.6 Collective Marks and Certification Marks

The indication referred to in Article 6(2)(a)(vi) shall consist of the words "collective mark desired" or "certification mark desired," respectively, or other words to that effect, appearing next to the name of the designated State to which the indication applies.

10.7 Requests Filed Through the Intermediary of a National Office

(a) The indication referred to in Article 6(3)(b) shall be worded as follows:

"The ... (1) certifies that the present request was filed with it on ... (2)."

(1) Indicate the name of the national Office. (2) Indicate the date.

(b) The national Office of any Contracting State whose national law provides that requests for the recording of later designations by residents of that State may be filed through the intermediary of the national Office of the said State shall, at least once a week, send to the International Bureau a note containing the following indications concerning each of the requests filed with it since the sending of the last such note:

(i) the name of the applicant or the owner of the international registration,

(ii) the international registration number and date to which the request refers or, where such number and date are not available, the reproduction of the mark, together with, where the international application was filed through the intermediary of the national Office, the date on which it was so received by such Office and the date on which it was mailed to the International Bureau or, where the international application was filed direct with the International Bureau, the date on which it was so filed or the date on which it was mailed to the International Bureau,

(iii) the date on which the request was filed with that Office,

(iv) the date on which the request was mailed to the International Bureau.

(c) The notes referred to in paragraph (b) shall be numbered consecutively. Where since the sending of the last note no requests have been filed with the national Office, the note shall state that fact.

(d) If the International Bureau does not receive any of the requests listed in any note within 15 days from the date on which it received such note, it shall inform the national Office accordingly.

Rule 11

Optional Contents of the Request for the Recording of Later Designations

11.1 Claiming of Priority

Rule 6.2 shall apply also to the declaration referred to in Article 6(2)(b).

11.2 Declaration of Intent To Use

(a) Any declaration made under Article 19(4)(a) shall consist of the following statement:

"The undersigned applicant/owner of the international registration declares that he (it) intends to use the mark which is the subject of the international application/international registration to which this request relates himself (itself) and/or by and through persons whose use inures to his (its) benefit in commerce with and/or on the territory of ... (1) on and/or in connection with the goods and/or services listed in this request."

(1) If the declaration relates to all the States designated in the request, insert "each of the States designated in this request"; otherwise, indicate those of the States designated in the request in respect of which the declaration is made.

(b) It shall depend on the national law of each designated State whether any declaration to the same effect as but worded differently than in paragraph (a) shall produce the effect provided for in Article 19(4)(a) in that State.

11.3 Declaration of Actual Use

In respect of any State designated in the request for recording of later designations, a statement, signed by the applicant or the owner of the international registration and whose form shall be the same as that

appearing in Rule 6.4 or Rule 26.3, as the case may be, may be made and attached to the request.

11.4 Declarations Under Articles 21(2) and 22(2)

Rule 6.5 shall apply, *mutatis mutandis*, to any declaration under Articles 21(2) or 22(2), where such declaration is included in the request for the recording of later designations.

11.5 List of Goods and/or Services

The formal concept of limitation referred to in Article 6(2)(b), second sentence, is defined in Rule 24.2.

11.6 Option Under Article 11(3)

The indication referred to in Article 11(3) shall be effected by identifying the appropriate national register or the appropriate part of the national register (for example, "Supplemental Register" or "Part B Register").

Rule 12

Form of the Request for the Recording of Later Designations

12.1 Printed Forms

(a) The request for the recording of later designations shall be made on the printed form referred to in paragraph (b) or on a paper identical, for all practical purposes, with that form as to size, content and layout.

(b) The International Bureau shall furnish free of charge, on request, to applicants, owners of international registrations, attorneys, patent or trademark agents, and to the national Offices, printed forms for requests for the recording of later designations. Such forms shall be established in the English language, in the French language, and in both of those languages.

(c) The form shall be filled in preferably by typewriter and shall be easily legible.

12.2 Copies; Signature

(a) The request for the recording of later designations and any attachments thereto shall be filed in one copy.

(b) The request shall be signed by the applicant or the owner of the international registration.

12.3 No Additional Matter

Rule 8.3 shall also apply to requests for the recording of later designations.

Rule 13

Fees Payable With the Request for the Recording of Later Designations

13.1 International Later Designation Fee and State Designation Fees

(a) The fees payable with the request for the recording of the later designation of any Contracting State shall be the following:

(i) an "international later designation fee," and, where Rule 5.3(c)(i) applies, a color reproduction fee,

(ii) in respect of each later designated State indicated in the request, the individual State designation fee or the standard State designation fee, as the case may be.

(b) The amounts of the international later designation fee, the standard State designation fee and the color reproduction fee are indicated in the Table of Fees.

Rule 14

Defects in the International Application

14.1 Minimum Amount Under Article 7

The minimum amount referred to in Article 7(2)(a)(ix) and (3)(a)(i) shall be an amount equivalent to the amount of the international application fee referred to in Rule 9.1(a)(i).

14.2 Notification, and Reimbursement of Certain Fees, Under Article 7(5)

(a) Where the International Bureau declines the international application, it shall notify the applicant accordingly and shall state the

grounds for declining. It shall reimburse to the applicant all fees received from him except an amount equivalent to the international application fee referred to in Rule 9.1(a)(i).

(b) Where the International Bureau declines to record a State as a designated State either on the ground referred to in Article 7(3)(b) or on the ground that the said State is not a Contracting State, it shall reimburse to the applicant any fee received from him in respect of the attempted designation of that State.

14.3 Notification of the National Office

Where the international application is treated as provided for in Article 7(6), the International Bureau shall inform accordingly the national Office through the intermediary of which the application was filed.

Rule 15

Defects in the Request for the Recording of Later Designations

15.1 Application of Rule 14

Rule 14 shall apply, *mutatis mutandis*, in respect of Article 8, provided that the amount referred to in Rules 14.1 and 14.2(a) shall be an amount equivalent to the amount of the international later designation fee referred to in Rule 13.1(a)(i).

Rule 16

Procedure Where Avoiding the Effects of Declining Is Sought

16.1 Recording and Publication Under Article 9(3)

(a) The fact of having received a copy of a petition under Article 9(1)(i) shall, where the petition relates to a mark which is already registered in the International Register of Marks, be recorded by recording the subject of the petition, the name of the national Office to which it appears to be addressed, and the date on which the said copy was received.

(b) The publication under Article 9(3) shall contain the international registration number of the mark, the name of the State to whose national Office the petition appears to have been addressed, and the date on which the copy of the petition was received by the International Bureau.

16.2 Information Available to National Offices

On the request of the applicant or the owner of the international registration, or of the interested national Office, the International Bureau shall send to that Office a copy of the file of the declined international application or declined request for the recording of later designations, together with a memorandum setting out the grounds for and the various steps leading to the declining of the said application or request.

16.3 Information Furnished by the National Office

Any request by a national Office referred to in Article 9(2)(i) shall indicate the grounds on which it is based.

Rule 17

Certificates

17.1 Certificates of International Registration and Certificates of Recording of Later Designations

(a) The certificates referred to in Articles 7(1) and 8(1) shall be issued in the name of the International Bureau and shall be signed by the Director General or an officer of the International Bureau authorized to do so by the Director General.

(b) Any such certificate shall consist of a facsimile of the publication of the international registration or of the publication of the recording of the later designations, as the case may be, and a statement to the effect that the said registration or recording reproduced in the certificate has been effected in the International Register of Marks.

(c) The certificate shall be promptly sent to the owner of the international registration.

Rule 18

Publication of International Registrations and Recordings of Later Designations

18.1 Contents of Publication of International Registrations

(a) The publication of any international registration shall contain:

(i) the name and address of the owner of the international registration, together with any indication of his trade or business and, if he bases his right to file international applications on his residence in, or his nationality of, a State other than that in which he has his address, the name of the State of his residence or nationality, as the case may be,

(ii) the reproduction of the mark, together with any indication under Rule 5.3(d) or (e) and any transliteration and translation; where color is claimed, the reproduction shall be in color if Rule 5.3(c)(i) applies, and it shall be in black and white and shall be accompanied by a description of the colors in words and signs if Rule 5.3(c)(ii) applies,

(iii) the list of goods and/or services,

(iv) the names of the designated States and, where applicable, after the name of each such State, an indication concerning the choice referred to in Rule 5.6 and the indication referred to in Rule 5.7,

(v) the international registration date,

(vi) the international registration number,

(vii) where the priority of one or more earlier applications is claimed, the date of filing and the number (if available) of such applications, the name of the country or countries in which or for which they were filed, and, where applicable, an indication that the application was filed under the Treaty or, where it was for a regional mark, an indication of the authority with which it was filed,

(viii) any indication under Article 11(3),

(ix) any declaration under Articles 21(2) and 22(2),

(x) the particulars concerning the representative; as provided in Rule 39.2(a).

(b) Where, in respect of any designated State, the international registration is effected pursuant to Article 9(2)(i), this fact shall be indicated in the publication.

(c) The Administrative Instructions shall provide for the composition and allocation of international registration numbers.

18.2 Contents of Publication of Recordings of Later Designations

(a) The publication of any recording of a later designation shall contain:

(i) *mutatis mutandis*, the same elements as those referred to in Rule 18.1(a),

(ii) the international later designation number,

(iii) the date of the recording of the later designation.

(b) Where the recording of any later designation is effected pursuant to Article 9(2)(i), this fact shall be indicated in the publication.

(c) The Administrative Instructions shall provide for the composition and allocation of international later designation numbers.

(d) Where the recording of any later designation was effected sufficiently prior to the date of publication of the international registration to be practical to do so, the publication of the recording of the later designation shall be consolidated with the publication of the international registration.

Rule 19

Notification of International Registrations and Recordings of Later Designations

19.1 Form of Notification

The notification referred to in Article 10(2) shall be effected separately for each national Office and shall consist of:

(i) a list of the international registration numbers and the international later designation numbers of the international registrations and recordings of later designations in which the State of the said Office has been designated,

(ii) reprints made of the publication by the International Bureau of each international registration and of each recording of later designations referred to in the said list,

(iii) a copy of the international application or the request for the recording of later designations if it contains a declaration made under Article 19(4)(a),

(iv) a copy of any declaration made under Rules 6.4 or 11.3,

(v) where Rule 5.3(c)(ii) applies, the reproduction in color of the mark in the number of copies specified in the Administrative Instructions, provided that such Instructions shall enable each national Office to require at least six copies.

19.2 Time of Notification

The notification shall be effected on the same day as that on which the issue of the Gazette is published that contains the matter from which the reprints referred to in Rule 19.1(ii) are made.

Rule 20

Refusals; Notices of Possible Refusal

20.1 Notifying the International Bureau; Grounds

(a) Any notification under Article 12(2)(a) shall be sent in one copy, preferably on a form furnished free of charge by the International Bureau to the national Office of each Contracting State. The notification shall, in any case, contain:

(i) the international registration number of the international registration, or the international later designation number of the later designation, as the case may be, to which the refusal or the notice of possible refusal relates,

(ii) the name of the owner of the international registration,

(iii) an indication of the mark in the cases and the manner provided for in paragraph (b),

(iv) an indication as to whether the notification is that of a refusal or of a notice of possible refusal,

(v) where it relates to some only of the goods and/or services listed, identification of those to which it relates,

(vi) the grounds referred to in Article 12(2)(a)(ii) and (iii), together with a reproduction of any mark cited in the notification and not reproduced therein and a copy of the list of goods and/or services (in the original language) pertaining to such mark, and, when the notice of possible refusal specifies the grounds by reference to the opposition of a third party, a copy of any document filed by the opposing party in which the said grounds are specified, together with a reproduction of any mark cited in the said document and not reproduced therein and a copy of the list of goods and/or services pertaining to such mark; where the grounds specified by the national Office in the notice of possible refusal do not include the grounds or some of the grounds invoked in the document filed by the opposing party and transmitted together with the said notice by the national Office, all the grounds contained in the said document shall be considered as having been specified by the national Office,

(vii) an indication as to whether any remedy is available, and if so with which authority it has to be sought and within what time limit.

(b) The cases and the manner referred to in paragraph (a)(iii) and in Rules 21.1(a)(ii) and 28.1(c)(ii) shall be as follows:

(i) where the mark consists of letters of the Latin alphabet, Arabic or Roman numerals, and punctuation signs usual in connection with the Latin alphabet, without any special graphic features and without also containing figurative elements, the indication shall consist of the letters, numerals and signs,

(ii) where item (i), above, does not apply, the indication shall consist of a reproduction of the mark.

(c) The form referred to in paragraph (a) shall be prepared separately for each Contracting State, in collaboration with its national Office. It shall list the more common of the grounds for refusal with a reference to the pertinent provisions of the national law so that, wherever possible, such grounds may be specified by marking the applicable items of the list. The form shall contain a space reserved for specifying any other grounds and for other possible indications.

20.2 Notifying the Owner of the International Registration; Publication

(a) The notification, under Article 31, of the recording effected under Article 12(4)(a) shall be sent to the owner of the international

registration promptly after the receipt of the notification referred to in Article 12(2)(a); it shall indicate the date on which the notification made under Article 12(2)(a) was received by the International Bureau and shall include a copy thereof.

(b) The publication of the recording effected under Article 12(4)(a) shall be effected promptly and shall contain:

(i) the international registration number of the international registration, or the international later designation number of the later designation, as the case may be, to which the refusal or the notice of possible refusal relates, and the name of the owner of the international registration,

(ii) the name of the State whose national Office transmitted the notification,

(iii) a statement to the effect that a notification under Article 12(2)(a) was received.

20.3 Notification and Recording of Final Decisions of Refusal; Cancellation of the Designation, and Publication of the Cancellation

(a) The notification by the national Office under Article 12(4)(b) shall be effected promptly after the date on which the decision of refusal becomes final and shall contain:

(i) an indication that it relates to a final decision of refusal,

(ii) the indications referred to in Rule 20.1(a)(i),

(iii) where the decision is that of a court, a copy of the final decision, or, where the decision is not that of a court, the grounds given in the final decision, preferably in the same manner as that indicated in Rule 20.1(c),

(iv) where the notification relates to some only of the goods and/or services listed, identification of those to which it relates,

(v) the name of the authority which pronounced the decision, the number, if any, and the date of such decision,

(vi) the date on which the decision became final.

(b) The notification by the International Bureau under Article 12(4)(b) shall be effected as soon as possible and shall include a copy of the notification referred to in paragraph (a), as well as the name of the State whose authorities have pronounced the final decision and an indication of the date of the receipt of such notification by the International Bureau.

(c) The details of the recording referred to in Article 12(4)(b) shall be provided in the Administrative Instructions.

(d) The publication referred to in Article 12(4)(b) shall be effected promptly and shall consist of the indications contained in the notification referred to in paragraph (a)(i) and (iv) to (vi), above, as well as the name of the State whose authorities have pronounced the final decision and the name of the owner of the international registration.

20.4 Notification and Publication Where Final Decision Results in Acceptance of the Effect Provided for in Article 11(2)

(a) The notification under Article 12(4)(c) shall be effected promptly after the final disposal of the case and shall consist of a statement to the effect that the notice of possible refusal or the refusal is withdrawn, the indications referred to in Rule 20.1(a)(i), the number, if any, and the date of the decision, and the date on which the decision became final.

(b) The publication referred to in Article 12(4)(c) shall be effected promptly and shall consist of the elements referred to in paragraph (a), as well as the name of the State whose authorities have pronounced the final decision and the name of the owner of the international registration.

20.5 Belated Notifications

If any notification referred to in Article 12(2)(a) is received by the International Bureau after the expiration of the time limit fixed in that provision, the International Bureau shall inform accordingly the national Office which effected the notification, treat such notification as if it had not been effected, inform the owner of the international registration that the notification it received is belated, and send to the owner a copy thereof.

Rule 21

Final Decisions of Cancellation

21.1 Notification and Recording of Final Decisions of Cancellation;

Cancellation of the Designation, and Publication of the Cancellation

(a) The notification referred to in Article 13(3) shall be effected promptly after the date on which the decision of cancellation becomes final and shall contain:

(i) the international registration number of the international registration, or the international later designation number of the later designation, as the case may be, to which the final decision of cancellation relates,

(ii) an indication of the mark in the cases and the manner provided for in Rule 20.1(b),

(iii) where the final decision relates to some only of the goods and/or services listed, identification of those to which it relates,

(iv) the name of the authority which pronounced the final decision,

(v) the number, if any, and the date of such decision,

(vi) the date on which the decision became final.

(b) The details of the recording referred to in Article 13(3) shall be provided in the Administrative Instructions.

(c) The publication referred to in Article 13(3) shall be effected promptly and shall consist of the indications contained in the notification referred to in paragraph (a), as well as the name of the State whose authorities have pronounced the final decision of cancellation and the name of the owner of the international registration.

Rule 22

Changes in Ownership

22.1 Request for Recording of Change in Ownership

(a) The indication referred to in Article 14(1)(b)(i) shall preferably be worded as follows: "The undersigned requests that the following change in ownership concerning the international registration identified herein be recorded."

(b) Rule 5.2 shall apply, *mutatis mutandis*, to the indications concerning the new owner referred to in Article 14(1)(b)(iii).

(c) The designated States referred to in Article 14(1)(b)(iv) shall be identified by their names in a manner sufficiently clear for the purpose, provided that, where the request relates to all the States designated in the existing international registration, they may be identified by a statement to that effect.

(d) The goods and/or services referred to in Article 14(1)(b)(iv) shall be identified as follows:

(i) where the request relates to all of the designated States and all of the goods and/or services listed in respect of each of those States, by a statement to that effect,

(ii) where the request relates to all of the designated States and the list of goods and/or services, while being the same for each, is more limited than in the international registration, by a new list and by a statement to the effect that it applies to all of the designated States,

(iii) in all other cases, in respect of those States for which the list of goods and/or services is the same as in the existing international registration, by a statement to that effect, and, in respect of those States for which the list of goods and/or services is more limited than the list of goods and/or services in the existing international registration, by a new list.

(e) The attestation referred to in Article 14(1)(c) shall be worded as follows:

"According to evidence produced before this Office, . . . (1) appears to be the successor in title of . . . (2) to the extent described in the present request, and the conditions referred to in Article 14(1)(c) of the Trademark Registration Treaty appear to be fulfilled. This attestation is given for the sole purpose of allowing the change of ownership to be recorded in the International Register of Marks."

(1) Insert the name of the new owner. (2) Insert the name of the earlier owner.

(f) The attestation shall be dated and shall bear the stamp or seal of the national Office and the signature of an official thereof.

(g) The amount of the fee referred to in Article 14(1)(d) is indicated in the Table of Fees.

(h) The request may contain an indication of the trade or business in which the new owner is engaged.

22.2 Publication Where the Change in Ownership is Total

(a) Where the change in ownership concerns all the designated States and all the goods and/or services, the publication referred to in Article 14(1)(d) shall contain:

(i) an indication that the change in ownership concerns all the designated States and all the goods and/or services,

(ii) the name and address of the new owner together with the indication, if any was given by him, of his trade or business and, if he hases his right to own international registrations on his residence in, or his nationality of, a State other than that in which he has his address, the name of the State of his residence or nationality, as the case may be,

(iii) the name of the earlier owner,

(iv) the date on which the International Bureau received the request,

(v) a reference to all the prior publications concerning the international registration except those which have been superseded by later publications in respect of that registration.

(b) The publication shall be effected under the number of the international registration, and, where applicable, the numbers of later designations to which it refers, followed by such further indications as the Administrative Instructions shall provide.

22.3 Publication Where the Change in Ownership is Partial

(a) Where the change in ownership concerns fewer than all of the designated States and/or some only of the goods and/or services, the publication referred to in Article 14(1)(d) shall contain two parts, one concerning the new owner, the other the earlier owner.

(b) The part concerning the new owner shall contain:

(i) an indication that the publication is effected pursuant to a request for the recording of a change in ownership,

(ii) the date on which the International Bureau received the request,

(iii) the number under which the part concerning the earlier owner is published,

(iv) the name and address of the new owner together with the indication, if any was given by him, of his trade or business and, if he hases his right to own international registrations on his residence in, or his nationality of, a State other than that in which he has his address, the name of the State of his residence or nationality, as the case may be,

(v) all the indications which, prior to the date referred to in item (ii), were published in respect of the international registration and which have not been superseded by later publications in respect of that registration, except those indications which solely concern designated States and goods and/or services in respect of which ownership is retained by the earlier owner.

(c) The part concerning the earlier owner shall contain:

(i) an indication that the publication concerns an existing international registration and contains those elements of that registration which, after the recording of the change in ownership concerning that registration, continue to concern the earlier owner,

(ii) the number under which the part concerning the new owner is published,

(iii) the date on which the International Bureau received the request,

(iv) all the indications which, prior to the date referred to in item (iii), were published in respect of the international registration and have not been superseded by later publications in respect of that registration, except those indications which, because of the change in ownership, no longer concern the earlier owner.

(d) Each part shall have a number and possibly also an appropriately worded heading. The Administrative Instructions shall provide the details of such numbers and headings.

22.4 Notification of Recording of Changes

(a) The notifications referred to in Article 14(1)(d) shall be effected by sending reprints of the publication referred to in Rules 22.2 and 22.3.

(b) The transmittal to designated Offices of the reprints referred to in paragraph (a) shall be accompanied by a list of the numbers referred to in Rules 22.2(b) and 22.3(d) relating to recordings concerning the designated State to which the list is addressed. Rule 19.2 shall apply, *mutatis mutandis*.

22.5 Notification of Declining of the Recording

The notification referred to in Article 14(2)(a) shall be effected by letter. The letter shall state the grounds for declining.

22.6 Denial

(a) The notification by the national Office referred to in Article 14(4)(c) shall:

- (i) refer to the fact of the denial,
- (ii) identify the authority that pronounced the denial and the date on which it was pronounced,
- (iii) indicate the relevant number or numbers referred to in Rule 22.2(b) and 22.3(d),
- (iv) contain a brief indication of the grounds for the denial.

(b) The recording and the publication referred to in Article 14(4)(c) shall contain:

- (i) the elements referred to in paragraph (a),
- (ii) the date on which the International Bureau received the notification referred to in paragraph (a),
- (iii) a reference to the publication of the recording effected under Article 14(1)(d).

(c) The notification by the International Bureau referred to in Article 14(4)(c) shall be sent to the earlier and the new owners and to the national Office which notified the denial.

Rule 23

Changes in the Name of the Owner of the International Registration

23.1 Request for Recording of Change in the Name

(a) The indication and declaration referred to in Article 15(2)(b)(i) and (ii) shall preferably be worded as follows: "The undersigned requests that the following change in the name of the owner of the international registration(s) identified herein be recorded. He declares that this change in his name does not amount to change in ownership."

(b) Rule 5.2(a) shall apply, *mutatis mutandis*, to the indication of both the former and the new names of the owner of the international registration.

(c) The amount of the fee referred to in Article 15(2)(d) is indicated in the Table of Fees.

23.2 Publication

(a) The publication referred to in Article 15(3) shall contain:

- (i) an indication to the effect that it concerns a change in the name of the owner of the international registration,
- (ii) the former name of the owner,
- (iii) the new name of the owner,
- (iv) the international registration number of the international registration in respect of which the recording has been effected,
- (v) the date on which the International Bureau received the request,

(vi) a reference to all the prior publications concerning the international registration except those which have been superseded by later publication in respect of the international registration concerned.

(b) The publication shall be effected under the number of the international registration, and, where applicable, the numbers of later designations to which it refers, followed by such further indications as the Administrative Instructions shall provide.

23.3 Notification of Recording

(a) The notifications referred to in Article 15(3) shall be effected by sending reprints of the publication referred to in Rule 23.2.

(b) The transmittal to designated Offices of the reprints referred to in paragraph (a) shall be accompanied by a list of the numbers referred to in Rule 23.2(b) relating to recordings concerning the designated State to whose national Office the list is addressed. Rule 19.2 shall apply, *mutatis mutandis*.

23.4 Notification of Declining of the Recording

The notification referred to in Article 15(4) shall be effected by letter. The letter shall state the grounds for declining.

23.5 Denial

(a) The notification by the national Office referred to in Article 15(6)(b) shall:

- (i) refer to the fact of the denial,
- (ii) identify the authority which pronounced the denial and the date on which it was pronounced,
- (iii) indicate the relevant number or numbers referred to in Rule 23.2(b),
- (iv) contain a brief indication of the grounds for the denial.

(b) The recording and the publication referred to in Article 15(6)(b) shall contain:

- (i) the elements referred to in paragraph (a),
- (ii) the date on which the International Bureau received the notification referred to in paragraph (a),
- (iii) a reference to the publication of the recording effected under Article 15(3).

(c) The notification by the International Bureau referred to in Article 15(6)(b) shall be sent to the owner of the international registration and to the national Office which notified the denial.

Rule 24

Recording of Limitations of the List of Goods and/or Services

24.1 Request for Recording of Limitation of the List

(a) The request for recording referred to in Article 16(1) shall indicate its purpose and contain:

- (i) the name of the owner of the international registration,
- (ii) the international registration number,
- (iii) the desired limitation of the list of goods and/or services,
- (iv) where the request relates to fewer than all the designated States, identification of those States to which it relates,

(v) where the request relates to one only of the designated States and, while not conforming with the formal concept of limitation as defined in Rule 24.2(a) and (b), it conforms with a decision of the national Office or other competent authority of such State concerning the international registration, a copy of such decision and, if the decision is in a language other than English or French, a translation of such decision.

(b) The request shall be signed by the owner of the international registration.

(c) The amount of the fee referred to in Article 16(2) is indicated in the Table of Fees.

(d) Where any term which is the subject of the request appears under more than one class of the International Classification and the request does not identify the class or classes to which it relates, such request shall be treated as if it related to the term under each of the classes under which it appears.

24.2 Formal Concept of Limitation

(a) Subject to paragraph (c), any request under Article 16(1) shall be regarded as conforming with the formal concept of limitation if it is presented in any of the following forms:

- (i) it asks for the deletion of one or more terms in the list of goods and/or services,
- (ii) it asks for the insertion of one or more words, linked to the existing term by words (such as "except") which, from the point of view

of syntax, make it clear that the inserted word or words are meant to be excluded from the existing term (for example, *milk products* (existing term) *except* (linking word) *condensed milk* (inserted words)),

(iii) it asks for the insertion of one or more words linked to the existing term by words (such as "provided that") which, from the point of view of syntax, make it clear that the inserted words are covered by the existing term (for example, *pineapples* (inserted word) *provided that they are* (linking words) *canned fruits* (existing term)).

(b) Unless the limitation is presented in one of the forms described in paragraph (a), it shall not, subject to paragraph (c), be regarded as conforming with the formal concept of limitation, however clear it may be that, in the ordinary sense of the word, there is a limitation (for example, replacing the term "milk products" by "condensed milk").

(c) For the purposes of Rule 24.1(a)(v), any change in the list of goods and/or services decided upon by the national Office or other competent authority concerned shall be deemed to conform with the formal concept of limitation.

24.3 Recording, Publication, and Notification, of Limitation of the List

(a) If the request complies with the prescribed requirements, the International Bureau shall record the indications referred to in Rule 24.1(a)(i) to (iv) and the date on which the request was received.

(b) Where the request is based on a decision referred to in Rule 24.1(a)(v), this fact, together with the following particulars, shall also be recorded:

- (i) the name of the authority which pronounced the decision,
- (ii) the number, if any, and the date of such decision.

(c) The publication and the notification referred to in Article 16(2) shall contain the indications referred to in Rule 24.1(a)(i) to (iv), the indications referred to in paragraph (b) and the date of the recording.

24.4 Declining the Recording of Limitation of the List

If the request does not comply with the prescribed requirements, the International Bureau shall decline the recording of the limitation and shall notify the owner of the international registration accordingly. The notification shall include the grounds for declining.

24.5 Invitation To Record Limitation of the List; Recording, Publication and Notification

(a) The invitation by the national Office referred to in Article 16(5)(a) or (b) shall:

- (i) indicate the relevant international registration number and date,
- (ii) indicate the name of the owner of the international registration,
- (iii) refer to the declining of the request of the owner or to the recording of the limitation by the International Bureau, as the case may be,
- (iv) indicate the finding of the national Office or other competent authority together with a brief indication of its grounds,
- (v) where the finding is contained in a decision, identify the authority which pronounced the decision and the date on which it was pronounced,
- (vi) where, under Article 16(5)(b), the limitation is found to be a limitation only in part, specify the extent to which it is found to be a limitation.

(b) The recording and the publication referred to in Article 16(5)(c) shall contain:

- (i) the elements referred to in paragraph (a),
- (ii) the date on which the International Bureau received the invitation referred to in paragraph (a),
- (iii) a reference to the publication of the recording, if any, effected under Article 16(1).

(c) The notifications by the International Bureau referred to in Article 16(5)(c) shall be sent to the national Office which sent the invitation.

Rule 25 Renewal

25.1 Reminder by the International Bureau

The International Bureau shall send a letter to the owner of the international registration before the expiration of the term, initial or renewal (as the case may be), which is in effect, reminding him that such term is about to expire. Further details concerning the contents of the reminder shall be provided in the Administrative Instructions. The reminder shall be sent at least 6 months before the expiration date. Failure to send or receive the reminder, or the fact of sending or receiving it outside the said period, or any error in the reminder, shall not affect the expiration date.

25.2 Demand for Renewal

(a) Any demand for renewal may exclude any of the designated States.

(b) Any demand for renewal may exclude in respect of any of the designated States all the goods and/or services appearing in the international registration under a given class or under given classes of the International Classification.

(c) The demand for renewal referred to in Article 17(3)(a) shall preferably be made on a printed form furnished free of charge by the International Bureau together with the reminder referred to in Rule 25.1. The demand shall, in any case, indicate its purpose and contain:

- (i) the name and address of the owner of the international registration,
- (ii) the international registration number,
- (iii) where the demand contains any exclusion under paragraph (a) or (b), the identification of the State or States and/or the class or classes referred to in paragraph (b).

(d) Where the demand contains any exclusion under paragraph (a) or (b), it shall be signed by the owner of the international registration.

(e) The demand for renewal shall not be combined with any other request; in particular, it shall not contain a request for recording a later designation, a request for recording a change in ownership, or, subject to paragraph (b), a request for recording a limitation in the list of goods and/or services.

(f) Rule 8.3 shall also apply to demands for renewal, provided that any declaration under Article 19(3)(d) may be filed at the same time as the demand for renewal.

25.3 International Renewal Fee and State Renewal Fees

(a) The fees payable under Article 17(3)(a) shall be the following:

- (i) an "international renewal fee," and, where Rule 5.3(c)(i) applies, a color reproduction fee, as well as, where applicable, the "renewal surcharge" referred to in Article 17(3)(a),

- (ii) in respect of each designated State to which the demand relates, the individual State renewal fee or the standard State renewal fee, as the case may be.

(b) The amounts of the international renewal fee, the color reproduction fee, the renewal surcharge and the standard State renewal fee are indicated in the Table of Fees.

(c) The amounts of the individual State renewal fees concerning the various Contracting States shall be published by the International Bureau each year in the month of August. The amounts so published shall be applicable as the individual State renewal fees from January 1 to December 31 of the year following the year in which they are published.

25.4 Imperfect Demands

(a) Where, within the time limits fixed in Article 17(3)(a), the International Bureau receives:

- (i) a demand which does not conform with the requirements of Rule 25.2, or
- (ii) a demand but no payment or insufficient payment to cover the renewal fees and any surcharge that is due, or
- (iii) money which appears to be intended to cover fees connected with renewal but no demand,

it shall, whenever practicable, promptly invite the owner of the international registration to present a correct demand, to pay or complete the renewal fees and any surcharge that is due, or to present a demand, as the case may be. The invitation shall indicate the applicable time limits.

(b) Failure to send or receive the invitation referred to in paragraph (a), or any delay in dispatching or receiving such invitation, or any error in the invitation, shall not prolong the time limits fixed in Article 17(3)(a).

25.5 Recording, Publication, and Notification

(a) Where the demand is presented and the fees are paid as prescribed, the International Bureau shall record the renewal and shall publish the elements, as specified in paragraph (b), of the international registration as it stands on the first day of the term of renewal, together with an indication both of the fact that the publication is that of a renewal and of the date on which the renewal shall expire.

(b) The elements referred to in paragraph (a) shall be the following:

(i) the name and address of the owner of the international registration, together with the indication, if any was given by him, of his trade or business and, if he bases his right to own international registrations on his residence in, or his nationality of, a State other than that in which he has his address, the name of the State of his residence or nationality, as the case may be,

(ii) the reproduction of the mark, together with any indication under Rule 5.3(d) or (e) and any transliteration and translation; where color is claimed, the reproduction shall be in color if Rule 5.3(c)(i) applies, and it shall be in black and white and shall be accompanied by a description of the colors in words and signs if Rule 5.3(c)(ii) applies.

(iii) the list of goods and/or services, provided that, where the list of goods and/or services differs in respect of different designated States, the publication shall contain appropriate indications in order to show which goods and/or services relate to which designated State,

(iv) the names of the designated States and, where applicable, after the name of each such State, an indication concerning the choice referred to in Rule 5.6 and the indication referred to in Rule 5.7,

(v) where, in respect of any designated State, a refusal or notice of possible refusal was notified and no final decision resulting in the cancellation of the designation or in the acceptance of the effect referred to in Article 11(2) has been notified, an indication that a refusal or notice of possible refusal was notified, together with the date of the receipt by the International Bureau of the notification of the refusal or notice of possible refusal,

(vi) the international registration number,

(vii) any international later designation number,

(viii) where the priority of one or more earlier applications was claimed, a statement that such claim has been made,

(ix) a reference to any indication under Article 11(3),

(x) a reference to any declaration under Articles 21(2) and 22(2),

(xi) particulars concerning the representative, as provided in Rule 39.2(a).

(c) Any indication which, at some time prior to the first day of the term of renewal, has been part of the international registration but which, before that day, has been cancelled or superseded shall not be included in the publication referred to in paragraph (a).

(d) The notification under Article 31 shall be effected by sending to the owner of the international registration a reprint of the publication of the renewal referred to in paragraph (a).

(e) The International Bureau shall notify each designated Office of the renewal by sending it:

(i) a reprint of the publication referred to in paragraph (a), and

(ii) where Rule 5.3(c)(ii) applies, the reproduction of the mark in the number of copies specified in the Administrative Instructions, provided that such Instructions shall enable each national Office to require at least six copies.

25.6 Declining the Demand

(a) Where the time limits fixed in Article 17(3)(a) are not respected or where the demand does not conform with the requirements of Rule 25.2 or the fees (including, where applicable, any surcharge) are not paid as

prescribed, the International Bureau shall decline the demand and shall notify the owner of the international registration by letter. The letter shall state the grounds for declining.

(b) The International Bureau shall not decline any demand before the expiration of 6 months after the starting date of the term of renewal.

25.7 Reimbursement of Certain Fees

Where, under Rule 25.6(a), the International Bureau declines the demand, it shall reimburse to the owner of the international registration all fees received from him except an amount equivalent to the international renewal fee referred to in Rule 25.3(a)(i).

25.8 Recording of Lack of Demand

Where, by the expiration of 6 months after the starting date of the term of renewal, no demand for renewal is presented to the International Bureau in respect of any or all of the designated States, such fact shall be recorded by the International Bureau.

25.9 Publication of Lists of International Registrations Not Renewed

The International Bureau shall publish, at intervals specified in the Administrative Instructions, a list of the international registration numbers of those international registrations which, having become due for renewal, have been renewed in respect of none of the designated States.

Rule 26

Declarations of Actual Use

26.1 Information on Requirements Concerning Routine Declarations of Actual Use

The national Office of any Contracting State whose national law requires the filing of routine declarations referred to in the first sentence of Article 19(3)(d) shall inform the International Bureau of such requirement and of any changes therein. Such information shall, in particular, indicate the time limits within which such declarations must be filed according to the national law and state whether the attachment of specimens or facsimiles to routine declarations of actual use is required by the national law. Any information received shall be published promptly upon receipt. Furthermore, the International Bureau shall republish in August of each year all the information received and still applicable at the time of the republication in respect of all the States concerned.

26.2 National Forms

The national Office of any Contracting State referred to in Rule 26.1 shall supply free of charge to the International Bureau in reasonable quantities declaration forms, in the form prescribed by the national law of that State, for the purposes of making declarations referred to in Article 19(3)(d). The International Bureau shall furnish such forms free of charge to interested persons.

26.3 International Form

(a) Where the declaration referred to in Article 19(3)(d) is not made on a national form according to Rule 26.2, it shall be made on a form ("international form") consisting of the following statement and shall be signed by the owner of the international registration:

"The undersigned owner of the international registration declares that he (it) is the owner of the international registration which was effected under No. . . ., as shown by recordings in the International Register of Marks, in respect of . . . (1) on . . . (2); that the mark which is the subject of the international registration herein identified is now in use by and through . . . (3) in commerce with and/or on the territory of the said State on or in connection with the following goods and/or services listed in respect of such State: . . . (4); that such use commenced on . . . (5); and that the mode or manner in which the mark is used is:

- on labels or tags affixed to and/or containers for the goods, as evidenced by the attached specimen(s) or facsimile(s) (6);
- on displays which are associated with the goods, as evidenced by the attached specimen(s) or facsimile(s) (6);

- in the case of services, in advertising of such services, as evidenced by the attached specimen(s) or facsimile(s) (6);
- other (7)."

(1) Insert name of State. (2) Insert international registration date or, if applicable, recording date of the later designation of such State. (3) Insert "the undersigned owner" and/or, if applicable, the name and address of the person or persons whose use of the mark inures to the benefit of the owner in the State. (4) Insert "all" or indicate the particular goods and/or services on or in connection with which the mark is used. (5) Insert the date of commencement of the continuing use of the mark, including, where different dates are applicable to different goods and/or services, the particular goods and/or services to which each such date relates. (6) The inclusion of specimens or facsimiles may be dispensed with where the declaration is made in respect of a State whose national law does not require that specimens or facsimiles be attached to routine declarations of actual use. (7) Recite sufficient facts in addition to, or in lieu of, checking one or more of the above boxes as to sales or advertising, or both, to show that the mark is in current use.

(b) The International Bureau shall furnish such forms free of charge to interested persons.

(c) The inclusion of specimens or facsimiles may be dispensed with where the declaration is made in respect of a State whose national law does not require that specimens or facsimiles be attached to routine declarations of actual use.

(d) The specimens referred to in paragraph (a) shall, in the case of a mark for goods, be duplicates of the actually used labels, tags, or containers, or of the displays associated therewith, or portions thereof, when made of suitable material and capable of being arranged flat and of a size not larger than the declaration. When, owing to the mode of applying or affixing the mark to the goods or to the manner of its use on the goods, such specimens cannot be furnished, suitable photographs or other acceptable reproductions, not larger than the declaration, which clearly and legibly show the mark and all matter used in connection therewith, shall be furnished. In the case of marks for services, specimens or facsimiles, as specified above, of the mark as used in the sale or advertising of the services shall be furnished unless impossible because of the nature of the mark or the manner in which it is used, in which event some other acceptable reproductions shall be furnished.

(e) It shall depend on the national law of each Contracting State whether any declaration to the same effect as but worded differently than in paragraph (a) shall produce the same effect.

Rule 27

Declarations Concerning Earlier National or Madrid Registrations

27.1 Separately Filed Declarations

(a) Any separately filed declaration under Article 21(2) shall:

- (i) specify the designated State or States in respect of which it is made,
- (ii) contain the statement that the owner of the international registration owned a national registration or national registrations in the said State or States on the international registration date or the international later designation date, as the case may be,
- (iii) indicate, in respect of each such national registration, its number,
- (iv) indicate the international registration number of the international registration to which it relates.

(b) Any separately filed declaration under Article 22(2) shall:

- (i) specify the designated State or States in respect of which it is made,
- (ii) contain the statement that the owner of the international registration owned a registration under the Madrid Agreement in respect of the said State or States on the international registration date or the international later designation date, as the case may be,
- (iii) indicate the number of the relevant Madrid registration,
- (iv) indicate the international registration number of the international registration to which it relates.

27.2 Certification of National Registrations

The certification of the copy of any national registration referred to in Article 21(2) shall be in the English or French language, shall be

signed by a person authorized by the national Office to effect certifications and shall indicate the date to which the certification refers. That date shall be the international registration date or the international later designation date, as the case may be, or, where the certification is made before international registration or recording of the later designation is effected, the date on which the certification is effected. In the latter case, the national Office effecting the certification shall, on the request of the International Bureau presented once the said registration or recording is effected by it, indicate to that Bureau any change which might have occurred in respect of the national registration between the date to which the certification referred and the international registration date or the recording date of the later designation, as the case may be.

27.3 Defects

(a) The International Bureau shall promptly notify the applicant or the owner of the international registration of any defect in the declaration made under Article 21(2) or Article 22(2), including the absence of the certified copy referred to in Article 21(2) and any defect in the certification thereof as provided in Rule 27.2.

(b) As long as any defect referred to in paragraph (a) is not corrected, the International Bureau shall treat the declaration as if it had not been made.

27.4 Publication; Notification

(a) Unless effected by virtue of Rule 18.1(a)(ix) or Rule 18.2(a)(i), the publication of any declaration under Article 21(2) or Article 22(2) shall indicate:

- (i) the fact that the publication relates to a declaration made under Article 21(2) or 22(2), as the case may be,
- (ii) the State or States in respect of which the declaration was made and the numbers of the relevant national or Madrid registrations,
- (iii) the international registration number of the international registration to which the declaration relates,
- (iv) the name of the owner of the international registration.

(b) Unless effected by virtue of Rule 19.1, the notification of any declaration under Article 21(2) or 22(2) shall consist of an indication that the declaration made under Article 21(2) or 22(2), as the case may be, was recorded by the International Bureau and shall be accompanied by a copy of the declaration.

Rule 28

Transmittal of Documents to the International Bureau

28.1 Place and Mode of Transmittal

(a) International applications, requests, demands, notifications and any other documents intended for filing, notification or other communication to the International Bureau shall be deposited with the competent service of that Bureau during the office hours fixed in the Administrative Instructions, or mailed to that Bureau.

(b) Where any document is transmitted to the International Bureau in response to an invitation by that Bureau bearing a reference number, the document shall indicate such reference number.

(c) Where paragraph (b) does not apply, any document transmitted to the International Bureau shall:

- (i) where it relates to an international application, be accompanied by a copy of such application,
- (ii) where it relates to an international registration, indicate, by its international registration number, the international registration to which it relates; it may also contain an indication of the mark as provided for in Rule 20.1(b).

(d) Paragraph (c) shall not apply in those cases where these Regulations contain specific provisions on the identification of the international application or registration to which any document transmitted to the International Bureau relates.

28.2 Date of Receipt of Documents

Any document received by the International Bureau through deposit or mail shall be considered to have been received on the day on which it

is actually received by that Bureau, provided that, when it is actually received after office hours, or on a day when the Bureau is closed for business, it shall be considered to have been received on the next subsequent day on which the Bureau is open for business.

Rule 29 Signature

29.1 Legal Entity

(a) Where any document submitted to the International Bureau is signed by a legal entity, the name of the legal entity shall be indicated in the place reserved for signature and shall be accompanied by the signature of the natural person or persons entitled to sign for such legal entity according to the national law of the State under whose law the legal entity was established.

(b) Paragraph (a) shall apply, *mutatis mutandis*, to partnerships or firms composed of attorneys or patent or trademark agents but which are not legal entities.

29.2 Exemption from Certification

No signature provided for under the Treaty or these Regulations shall require authentication, legalization or other certification.

Rule 30 Calendar; Computation of Time Limits

30.1 Calendar

The International Bureau, national Offices, applicants and owners of international registrations shall, for the purposes of the Treaty and these Regulations, express any date in terms of the Christian era and the Gregorian calendar.

30.2 Periods Expressed in Years, Months, or Days

(a) When a period is expressed as one year or a certain number of years, computation shall start on the day following the day on which the relevant event occurred, and the period shall expire in the relevant subsequent year in the month having the same name and on the day having the same number as the month and the day on which the said event occurred, provided that if the relevant subsequent month has no day with the same number the period shall expire on the last day of that month.

(b) When a period is expressed as one month or a certain number of months, computation shall start on the day following the day on which the relevant event occurred, and the period shall expire in the relevant subsequent month on the day which has the same number as the day on which the said event occurred, provided that if the relevant subsequent month has no day with the same number the period shall expire on the last day of that month.

(c) When a period is expressed as a certain number of days, computation shall start on the day following the day on which the relevant event occurred, and the period shall expire on the day on which the last day of the count has been reached.

30.3 Local Dates

(a) The date which is taken into consideration as the starting date of the computation of any period shall be the date which prevails in the locality at the time when the relevant event occurred.

(b) The date on which any period expires shall be the date which prevails in the locality in which the required document is filed or the required fee is paid.

30.4 Expiration on a Non-Working Day

If the expiration of any period during which any document or fee must reach the International Bureau or any of its agencies falls on a day on which such Bureau or agency is not open for business, or on which ordinary mail is not delivered in Geneva or the locality in which the agency is situated, the period shall expire on the next subsequent day on which neither of the said two circumstances obtains.

Rule 31 Payment of Fees

31.1 Payment to the International Bureau

All fees due under the Treaty and these Regulations shall be payable to the International Bureau.

31.2 Applicable Fee Schedule

The fees payable shall be:

(i) where they concern an international application or a request for the recording of a later designation, the fees in force on the date the international application or the request for the recording of the later designation is received by the International Bureau or, where the application or request has been filed through the intermediary of a national Office under Article 5(3), on the date on which it was received by that Office,

(ii) where they concern a demand for renewal, the fees in force on the date which precedes by 6 months the starting date of the term of renewal.

31.3 Currency

(a) Subject to paragraph (b), all fees due under the Treaty and these Regulations shall be payable in Swiss currency.

(b) Where the International Bureau has agencies, the Administrative Instructions may, under specified conditions, allow exceptions to paragraph (a).

31.4 Deposit Accounts

(a) Any natural person or legal entity may open a deposit account with the International Bureau or any of its agencies.

(b) The details concerning deposit accounts shall be provided in the Administrative Instructions.

31.5 Indication of the Mode of Payment

(a) Unless the payment is made in cash to the cashier of the International Bureau, the international application, and any request, demand, or other document, filed with the International Bureau in connection with any international registration, subject to the payment of any fee, shall indicate:

(i) the name and address, as provided in Rule 5.2(a) and (c), of the natural person or legal entity making the payment, unless the payment is made by a cheque attached to the document,

(ii) the mode of payment, which may be by an authorization to debit the amount of the fee to the deposit account of such person or entity, or by transfer to a bank account or to the postal cheque account of the International Bureau, or by cheque. The Administrative Instructions shall provide the details, in particular those governing the kind of cheques that shall be accepted in payment.

(b) Where the payment is made pursuant to an authorization to debit the amount of the fee to a deposit account, the authorization shall specify the transaction to which it relates, unless there is a general authorization to debit to a specified deposit account any fee concerning a certain applicant, owner of an international registration, or duly appointed representative.

(c) Where the payment is made by transfer to a bank account or to the postal cheque account of the International Bureau, or by a cheque not attached to the international application, request, demand, or other document, the notification of the transfer or the cheque (or paper accompanying it) shall identify the transaction to which the payment relates, in the manner to be provided for in the Administrative Instructions.

31.6 Effective Date of Payment

Any payment shall be considered to have been received by the International Bureau on the date indicated hereinbelow:

(i) if the payment is made in cash to the cashier of the International Bureau, on the date on which such payment is made,

(ii) if the payment is made by debiting a deposit account with the International Bureau pursuant to a general authorization to debit, on the date on which the international application, the request for the recording of later designation, the demand for renewal or other document entailing the obligation to pay fees is received by the International Bureau, or, in the case of a specific authorization to debit, on the date on which the specific authorization is received by the International Bureau,

(iii) if the payment is made by transfer to a bank account or to the postal cheque account of the International Bureau, on the date on which such account is credited,

(iv) if the payment is made by cheque, on the date on which the cheque is received by the International Bureau, provided that it is honored upon presentation to the bank on which the cheque is drawn.

Rule 32

Withdrawals and Renunciations

32.1 *Withdrawal of the International Application or Request for Recording of Later Designation*

(a) Any withdrawal of an international application shall be treated as such by the International Bureau if the communication of withdrawal reaches it before preparations for publication have been completed.

(b) Any withdrawal of a request for the recording of later designation shall be treated as such by the International Bureau if the communication of withdrawal reaches it before preparations for publication have been completed.

32.2 *Renunciation of the International Registration or of Certain Designations*

(a) The owner of the international registration may, at any time, renounce the international registration or the recording of the designation of any designated State.

(b) Renunciation of the recording of all designated States shall be treated as renunciation of the international registration.

32.3 *Procedure*

(a) Withdrawals and renunciations referred to in Rules 32.1 and 32.2 shall be effected in a written communication addressed to the International Bureau and signed by the applicant or the owner of the international registration, as the case may be. The International Bureau shall acknowledge receipt of this communication.

(b) In the case of any withdrawals, the International Bureau shall reimburse to the applicant or the owner of the international registration any State designation fee which it received from him in connection with any State affected by the withdrawal.

(c) The International Bureau shall record and publish renunciations, and shall notify interested designated Offices thereof. The details shall be provided in the Administrative Instructions.

Rule 33

Choice Between Individual and Standard State Fees

33.1 *Initial Choice*

Any Contracting State shall choose between individual and standard State fees in a written declaration addressed to the International Bureau at the same time as it deposits its instrument of ratification or accession. If it chooses individual State fees, the declaration shall also indicate the amounts of those individual State fees in Swiss francs. The choice of the Contracting State shall become effective and the amounts indicated shall be applicable from the date on which such State becomes bound by the Treaty. Where the Contracting State fails to indicate its choice at the prescribed time, or where it chooses individual State fees but fails to indicate their amounts in Swiss francs, it shall be considered to have chosen standard State fees.

33.2 *Change in Choice*

Any Contracting State may at any time indicate, in a written declaration addressed to the International Bureau, that it wishes to choose standard State fees instead of individual State fees or vice versa, provided

that, in the latter case, the declaration shall indicate also the amounts of the individual State fees. The change in choice shall apply from January 1 of that calendar year which commences at the expiration of at least 6 months after the date on which the International Bureau received the declaration. If the desired change is for individual State fees but the declaration fails to indicate their amounts in Swiss francs, the declaration shall be treated as if it had not been made.

Rule 34

Change in the Amounts of Individual State Fees

34.1 *Communication; Effective Date*

Any change in the amounts of individual State fees, expressed in Swiss francs, shall be communicated in writing by the interested national Office to the International Bureau. The amounts so communicated shall be applicable as from January 1 of that calendar year which commences at the expiration of at least 6 months after the date on which the International Bureau received the communication.

Rule 35

State Fees

35.1 *Individual State Fees*

(a) The International Bureau shall in every calendar year transfer to any interested designated Office the fees referred to in Article 18(3)(d) that are collected in respect of international registrations, recordings of requests for later designations, and recordings of renewals, effected in the preceding calendar year.

(b) Further details shall be provided in the Administrative Instructions.

35.2 *Standard State Fees*

(a) The coefficient referred to in Article 18(4)(b) shall be:

(i) 2, if the national law provides only for examination of "absolute grounds of nullity,"

(ii) 3, if the national law provides for examination as to whether there is conflict with another mark ("relative grounds of nullity") and if such examination is carried out only where there is third-party opposition,

(iii) 4, if the national law provides for examination of relative grounds of nullity ex officio and without third-party opposition,

(iv) 5, if the national law provides for examination of relative grounds of nullity ex officio followed by the possibility of third-party opposition.

(b) Further details shall be provided in the Administrative Instructions.

Rule 36

Fees Belonging to the International Bureau

36.1 *Fees Belonging to the International Bureau*

All fees and charges collected under the Treaty, these Regulations and the Administrative Instructions, except those referred to in Article 18(2), shall belong to the International Bureau.

Rule 37

Recordings Effected by National Offices

37.1 *Notification*

The notification by the national Office provided for in Article 20(1) shall be made on a form furnished by the International Bureau and the details of which are provided in the Administrative Instructions.

37.2 *Annotation and Publication*

The Administrative Instructions shall provide for the extent to which annotations of any changes notified under Article 20(2) shall be made in the International Register of Marks and shall be published by the International Bureau, provided that such annotation and such publication shall at least indicate the international registration number of the mark, the State which it concerns, the date on which it was received, and its subject matter.

Rule 38 Changes in Addresses

38.1 Recording and Publication

(a) The International Bureau shall, on request, record and publish, free of charge, any change in the address of the owner of the international registration or his representative.

(b) The request shall be signed.

Rule 39

Recording and Publication Concerning Representatives

39.1 Recording

(a) Where a representative is appointed, the appointment shall be recorded.

(b) Where the appointment of a representative is revoked or renounced, the revocation or the renunciation shall be recorded.

39.2 Publication

(a) Where a representative is appointed, his appointment, including his name and address, shall be published.

(b) Where the appointment of a representative is revoked or renounced, the revocation or the renunciation shall be published unless, at the time the publication could be effected, the appointment of another representative is published.

Rule 40 The Gazette

40.1 Contents and Title of the Gazette

(a) All matters which, according to the Treaty or these Regulations, the International Bureau is obliged to publish shall be published in a periodical entitled "International Marks Gazette / *Gazette internationale des marques*."

(b) The Administrative Instructions may provide for the inclusion of other matters in the Gazette.

40.2 Frequency of Issue of the Gazette

The Gazette shall be issued once a week.

40.3 Languages of the Gazette

(a) The Gazette shall be issued in a bilingual (English and French) edition.

(b) The Administrative Instructions shall identify those portions which require translation and those portions which do not require translation.

(c) Matters which can be easily understood even if not translated (for example, the names of the designated States), or which are indicated by signs or abbreviations (for example, "Ren." for "Renewal/*Renouvellement*") to which the keys shall be published in each issue, need not be translated. The details shall be provided in the Administrative Instructions.

(d) Matters not falling within the scope of paragraph (c) (for example, the lists of goods and/or services) shall always be published in both languages. The publication shall indicate which is the original language. Translations shall be prepared by the International Bureau. In case of any divergence between the original and the translation, all legal effects shall be governed by the original.

40.4 Sale of the Gazette

The subscription and other sale prices of the Gazette shall be fixed in the Administrative Instructions.

40.5 Copies of the Gazette for National Offices

(a) Before July 1 of each year each national Office shall notify the International Bureau of the number of copies of the Gazette which it wishes to receive in the next subsequent year.

(b) The International Bureau shall make the requested number of copies available to the national Office:

(i) free of charge, up to the same number as the number of units corresponding to the class chosen under the Paris Convention for the Pro-

tection of Industrial Property by the Contracting State of which the said Office is the national Office,

(ii) at half of the ordinary subscription or sale price, for copies in excess of the said number.

(c) Copies given free of charge or sold under paragraph (b) shall be for the internal use of the national Office which has requested them.

40.6 Errors in Publications

(a) Any error in the Gazette may be rectified by the International Bureau through publication of an appropriate corrigendum.

(b) Any national Office and any interested person may call any error in the Gazette to the attention of the International Bureau.

40.7 Further Details

Further details concerning the Gazette may be provided in the Administrative Instructions.

Rule 41

Copies and Other Information Available to the Public

41.1 Copies and Information Concerning International Applications and International Registrations

(a) Any person may obtain from the International Bureau, against payment of a fee whose amount shall be fixed in the Administrative Instructions, certified or uncertified copies or extracts of the international registration or of any document in the file of any international application or international registration. Each copy or extract shall reflect the situation of the international registration or of the file, or parts of such registration or file, on a specific date; such date shall be indicated in the said copy or extract.

(b) On request and against payment of a fee whose amount shall be fixed in the Administrative Instructions, any person may obtain from the International Bureau oral or written information, or information by telecopier devices, on any fact appearing in any document in the file of any international application or international registration.

(c) Notwithstanding paragraphs (a) and (b), the Administrative Instructions may waive the obligation to pay any fee where the work or the expense connected with the furnishing of a copy, extract, or information is minimal.

Rule 42

Regional Marks

42.1 Declaration Under Article 25(1)(a)

(a) The declaration referred to in Article 25(1)(a) shall be in writing and shall be addressed to the International Bureau. It shall be effective as from the date or event specified in the declaration, provided that it shall not become effective prior to the expiration of 2 months from the receipt of the declaration by the International Bureau.

(b) The declaration shall be promptly published by the International Bureau.

42.2 Fees

Rules 9, 13, 25.3, 33 and 34 shall apply, *mutatis mutandis*, in the case referred to in Article 25(2).

Rule 43

Procedure Where Correction of Errors of the International Bureau Is Sought

43.1 Time Limit Under Article 30

The time limit referred to in Article 30(1) shall be:

(i) where the alleged error may be discovered on the basis of a notification sent by the International Bureau to the applicant or the owner of the international registration, 2 months from the date of such notification,

(ii) where item (i) does not apply and the alleged error may be discovered on the basis of a publication of the International Bureau, 2 months from the date of such publication,

(iii) where neither item (i) nor item (ii) applies, the time limit provided for in the national law.

43.2 *Application of Rule 16*

Rule 16 shall apply, *mutatis mutandis*, in respect of Article 30.

Rules Concerning Chapter II

Rule 44

Expenses of Delegations

44.1 *Expenses Borne by Governments*

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 which has appointed it.

Rule 45

Absence of Quorum in the Assembly

45.1 *Voting by Correspondence*

(a) In the case provided for in Article 32(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 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 3 months from the date of the communication.

(b) If, at the expiration of the said period, the number of Contracting States having thus expressed their vote or abstention attains the number of Contracting States 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.

Rule 46

Administrative Instructions

46.1 *Establishment of Administrative Instructions; Matters Governed by Them*

(a) The Director General shall establish Administrative Instructions. He may modify them. They shall deal with matters in respect of which these Regulations expressly refer to such Instructions and with details in respect of the application of these Regulations.

(b) Before establishing the Administrative Instructions and before modifying any provision thereof which affects national Offices, the Director General shall communicate to the interested Offices the text of the intended provisions and shall invite the said Offices to notify him of any observations they might wish to make.

(c) All forms of interest to applicants and owners of international registrations shall be included in the Administrative Instructions.

46.2 *Control by the Assembly*

The Assembly may invite the Director General to modify any provision of the Administrative Instructions, and the Director General shall proceed accordingly.

46.3 *Publication and Effective Date*

(a) The Administrative Instructions and any modification thereof shall be published in the Gazette.

(b) Each publication shall specify the date on which the published provisions become effective. The date need not be the same for all the provisions provided that no provision may be declared effective prior to the expiration of a period of one month after the publication date of that issue of the Gazette in which it was published.

46.4 *Conflict with the Treaty and the Regulations*

In the case of conflict between any provision of the Administrative Instructions and any provision of the Treaty or of these Regulations, the latter shall prevail.

ANNEX TO THE REGULATIONS

Table of Fees

The fees marked by an asterisk apply to the States which have chosen the standard State fee system (see Article 18(2) and (4)). Where either

because of the choice exercised by the applicant or the owner of the international registration under Article 5(1)(a)(vi) or 6(2)(a)(v), or because only a regional mark is available, the designation of one or more States party to a regional treaty has the same effect as if an application for the registration of the mark in the regional register of marks had been filed, the fees marked by an asterisk shall be payable once even if the regional registration effect extends to more than one State party to the regional treaty.

| <i>Kind of Fee</i> | <i>Amount in Swiss Francs</i> |
|--|--|
| 1. <i>Application</i> | |
| 1.1 International Application Fee (Rule 9.1(a)(i)): irrespective of the number of designated States and of the number of classes | 400 |
| 1.2 * Standard State Designation Fee (Rule 9.1(a)(ii)): for each designated State to which the Standard Fee System applies | 30 multiplied by the number of classes |
| 1.3 Color Reproduction Fee (Rule 9.1(a)(i)) | 100 |
| 2. <i>Later Designation</i> | |
| 2.1 International Later Designation Fee (Rule 13.1(a)(i)): irrespective of the number of designated States and of the number of classes | 100 |
| 2.2 * Standard State Designation Fee (Rule 13.1(a)(ii)): for each designated State to which the Standard Fee System applies | 30 multiplied by the number of classes |
| 2.3 Color Reproduction Fee (Rule 13.1(a)(i)) | 100 |
| 3. <i>Change in Ownership</i> | |
| 3.1 Request for Recording Change in Ownership Fee (Rule 22.1(g)) | 100 |
| 4. <i>Change in the Name of the Owner</i> | |
| Request for Recording Change in the Name of the Owner (Rule 23.1(c)): | |
| 4.1 Where the request relates to one international registration | 100 |
| 4.2 Where the request relates to more than one international registration | 50 for each of the international registrations to which it relates |
| 5. <i>Limitation of List of Goods and/or Services</i> | |
| 5.1 Request for Recording of Limitation of the List of Goods and/or Services Fee (Rule 24.1(c)) | 100 |
| 6. <i>Renewal</i> | |
| 6.1 International Renewal Fee (Rule 25.3(a)(i)): irrespective of the number of designated States and of the number of classes | 400 |
| 6.2 Renewal Surcharge (Rule 25.3(a)(i)): irrespective of the number of designated States and of the number of classes | 200 |
| 6.3 * Standard State Renewal Fee (Rule 25.3(a)(ii)): for each designated State in which the Standard Fee System applies | 30 multiplied by the number of classes |
| 6.4 Color Reproduction Fee (Rule 25.3(a)(i)) | 100 |

Resolution

adopted by the Diplomatic Conference
on June 8, 1973

The Diplomatic Conference on the Trademark Registration Treaty held at Vienna in 1973,

Considering the desirability of preparing the implementation of the Trademark Registration Treaty pending its entry into force,

Invites the Assembly and the Executive Committee of the Paris Union for the Protection of Industrial Property to adopt, direct and supervise the measures to be taken by the International Bureau of the World Intellectual Property Organization (WIPO) necessary for the preparation of the entry into force of the Treaty;

Recommends that such measures include the setting up of a TRT Interim Advisory Committee which should study

and recommend measures on the questions that will require, by the time the Treaty enters into force, solutions by the national Offices and the International Bureau with respect both to their cooperation under the Treaty and to their tasks concerning its implementation, and which should in particular advise the Director General of WIPO on the preparation of the Administrative Instructions referred to in Rule 46 of the Regulations under the TRT;

Recommends further that the interested intergovernmental and non-governmental organizations be associated, as in the preparation of the Treaty, in the said preparatory work.

- July 1 to 5, 1974 (Geneva) — International Patent Classification (IPC) — Working Group II of the Joint ad hoc Committee
- September 2 to 8, 1974 (Geneva) — International Patent Classification (IPC) — Working Group V of the Joint ad hoc Committee
- September 9 to 13, 1974 (Geneva) — International Patent Classification (IPC) — Working Group III of the Joint ad hoc Committee
- September 18 to 20, 1974 (Geneva) — ICIREPAT — Plenary Committee
- September 24 to October 2, 1974 (Geneva) — Sessions of the Administrative Bodies of WIPO and the Unions administered by WIPO
- September 30 to October 4, 1974 (Geneva) — International Patent Classification (IPC) — Working Group I of the Joint ad hoc Committee
- October 21 to 31, 1974 (Geneva) — ICIREPAT — Technical Committee for Shared Systems (TCSS) and Technical Committee for Standardization (TCST)
- November 4 to 8, 1974 (Geneva) — International Patent Classification (IPC) — Working Group IV of the Joint ad hoc Committee
- December 9 to 13, 1974 (Geneva) — International Patent Classification (IPC) — Bureau of the Joint ad hoc Committee
- December 16 to 18, 1974 (Geneva) — ICIREPAT — Technical Coordination Committee (TCC)
- September 23 to 30, 1975 (Geneva) — Sessions of the Administrative Bodies of WIPO and the Unions administered by WIPO

UPOV Meetings

- October 9, 1973 (Geneva) — Consultative Working Committee
- October 10 to 12, 1973 (Geneva) — Council
- November 6 and 7, 1973 (Geneva) — Technical Steering Committee

Meetings of Other International Organizations concerned with Intellectual Property

- September 10 to 14, 1973 (Stockholm) — International Federation of Actors — Congress
- September 10 to October 6, 1973 (Munich) — Munich Diplomatic Conference for the Setting Up of a European System for the Grant of Patents, 1973
- September 24 to 28, 1973 (Budapest) — International Association for the Protection of Industrial Property — Symposium
- October 27 to November 2, 1973 (Tokyo) — East Asian Seminar on Copyright
- October 28 to November 2, 1973 (Tel Aviv) — International Writers Guild — Congress
- November 12 to 14, 1973 (Mexico) — Inter-American Association of Industrial Property — Administrative Council
- December 10 to 14, 1973 (Brussels) — European Economic Community — “Community Patent” Working Party
- February 24 to March 2, 1974 (Melbourne) — International Association for the Protection of Industrial Property — Executive Committee
- May 6 to 30, 1974 (Luxembourg) — Conference of the Member States of the European Communities concerning the Convention on the European Patent for the Common Market
- May 3 to 10, 1975 (San Francisco) — International Association for the Protection of Industrial Property — Congress
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ANNOUNCEMENT OF VACANCY

*Competition No. 218**Translator**(Languages Section)*

*Category and grade: P. 3/P. 2 **

Principal duties:

- (a) Translation into French of legal, administrative and technical texts in English.
- (b) Revision from a linguistic point of view of French working documents and other French texts issued or published by WIPO.
- (c) Participation in the translation work or editorial tasks of the Section during conferences.
- (d) Where necessary, translation into French from Spanish, Russian or German (according to the language of which the incumbent has an adequate knowledge).

The duties mentioned above are performed subject to supervision by the Head of the Languages Section.

Qualifications required:

- (a) University degree in modern languages or law, or other relevant field.
- (b) Wide general culture and ability to acquire information on a variety of professional and technical subjects.
- (c) Excellent knowledge of French (mother tongue) and thorough knowledge of English. Good working knowledge of Spanish, Russian or German highly desirable.

* According to the qualifications and experience of the selected candidate.

- (d) Considerable experience in translation work of a legal and administrative nature. Demonstrated ability to work without close supervision. Elegance of style, clarity and accuracy.

- (e) Ability to correct quickly texts drafted in French.

Nationality:

Candidates must be nationals of one of the Member States of WIPO or of the Paris or Berne Unions. Qualifications being equal, preference will be given to candidates who are nationals of States of which no national is on the staff of WIPO.

Type of appointment:

Fixed term appointment of two years, with possibility of renewal; or probationary period of two years after satisfactory completion of which a permanent appointment will be offered.

Age limit applicable to appointment for a probationary period:

Less than 50 years of age at date of appointment.

Date of entry on duty:

January 1, 1974, or to be agreed.

Applications:

Application forms and full information regarding the *conditions of employment* may be obtained from the Head of the Administrative Division, WIPO, 32, chemin des Colombettes, 1211 Geneva 20, Switzerland. Please refer to the number of the Competition and enclose a brief curriculum vitae.

Closing date: October 31, 1973.

