

MADRID PROTOCOL

Model Forms 3A and 3B: Total or Partial Provisional Refusal of Protection (Rule 17(1) of the Common Regulations) [Note for filing]

An Office can use this form to communicate to the International Bureau a decision to refuse protection of the international registration in the Contracting Party, following *ex officio* examination (*ex officio* provisional refusal), opposition (provisional refusal based on opposition), or both.

The Office would need to specify to the International Bureau whether the provisional refusal is total, meaning for all the concerned goods and services, or only partial, for specific goods and services. To do this, the Office can choose between using Model Form 3A or 3B:

- Model Form 3A should be used where the Office is refusing protection for all the concerned goods and services (total refusal).
- Model Form 3B should be used where the Office is refusing protection for only a part of the goods and services (partial refusal).

Once all procedures before the Office have been completed, the Office shall communicate to the International Bureau a statement regarding the final decision on the status of protection of the mark. At that time, the Office should use Model Form 5 (Statement of grant of protection following a refusal) or Model Form 6 (Confirmation of total provisional refusal).

Where the provisional refusal is based on an opposition, alone or together with an *ex officio* refusal, the name and address of the opponent should also be provided.

Where a total refusal affecting all the goods or services is being notified, the indication under item V should read “all goods (or all services) in class X”.

In cases of partial refusal, a clear indication of those goods and/or services that are affected or and those that are NOT affected should be provided.

Where the provisional refusal is based on an earlier mark, the indication required under item VII may be given by annexing a printout from the register or database.

If the Office requires that the holder accept a specific disclaimer to overcome the provisional refusal, the Office should indicate the disclaimer under item IX (iv) “Other requirements, if any”.