Appendix AI Administrative Instructions Under the PCT

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AI Administrative Instructions Under the PCT

PART 1

INSTRUCTIONS RELATING TO GENERAL MATTERS

101 Abbreviated Expressions and Interpretation

(a) In these Administrative Instructions:

(i) "Treaty" means the Patent Cooperation Treaty;

(ii) "Regulations" means the Regulations under the Treaty;

(iii) "Article" means an Article of the Treaty;

(iv) "Rule" means a Rule of the Regulations;

(v) "International Bureau" means the International Bureau as defined in Article 2(xix) of the Treaty;

(vi) "International Authorities" means the receiving Offices, the International Searching Authorities, the International Preliminary Examining Authorities, and the International Bureau;

(vii) "Annex" means an Annex to these Administrative Instructions, unless the contrary clearly follows from the wording or the nature of the provision, or the context in which the word is used;

(viii) "Form" means a Form contained in Annex A; [1]

(ix) "WIPO Standard" means a Standard established by the World Intellectual Property Organization;

(x) "Director General" means the Director General as defined in Article 2(xx) of the Treaty;

(xi) "electronic" technology includes that having electrical, digital, magnetic, optical or electromagnetic capabilities;

(xii) the expressions "sequence listing", "sequence listing forming part of the international

[1] *Editor's Note: Annex A is published separately by the World Intellectual Property Organization.*

application" and "sequence listing not forming part of the international application" have the same meaning as in Annex C.

(b) The Annexes are part of these Administrative Instructions.

102 Use of the Forms

(a) Subject to paragraphs (b) to (k) and Section 103, the International Authorities shall use, or require the use of, the mandatory Forms specified below:

(i) Forms for use by the applicant:

PCT/RO/101 (request Form)	PCT/IPEA/401 (demand Form)

(ii) Forms for use by the receiving Offices:

PCT/RO/103	PCT/RO/115	PCT/RO/152
PCT/RO/104	PCT/RO/117	PCT/RO/153
PCT/RO/105	PCT/RO/118	PCT/RO/154
PCT/RO/106	PCT/RO/123	PCT/RO/155
PCT/RO/107	PCT/RO/126	PCT/RO/156
PCT/RO/109	PCT/RO/133	PCT/RO/157
PCT/RO/110	PCT/RO/136	PCT/RO/158
PCT/RO/111	PCT/RO/143	PCT/RO/159
PCT/RO/112	PCT/RO/147	
PCT/RO/113	PCT/RO/150	
PCT/RO/114	PCT/RO/151	

(iii) Forms for use by the International Searching Authorities:

PCT/ISA/201	PCT/ISA/212	PCT/ISA/234
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PCT/ISA/203	PCT/ISA/218	PCT/ISA/236
PCT/ISA/205	PCT/ISA/219	PCT/ISA/237
PCT/ISA/206	PCT/ISA/220	
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PCT/ISA/210		

PCT/SISA/501	PCT/SISA/504	PCT/SISA/507
PCT/SISA/502	PCT/SISA/505	PCT/SISA/510
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(iv) Forms for use by the International Bureau:

PCT/IB/301	PCT/IB/325	PCT/IB/357
PCT/IB/304	PCT/IB/326	PCT/IB/358
PCT/IB/305	PCT/IB/331	PCT/IB/360
PCT/IB/306	PCT/IB/332	PCT/IB/366
PCT/IB/307	PCT/IB/335	PCT/IB/367
PCT/IB/308	PCT/IB/336	PCT/IB/368
PCT/IB/310	PCT/IB/337	PCT/IB/369
PCT/IB/311	PCT/IB/338	PCT/IB/370
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PCT/IB/318	PCT/IB/350	PCT/IB/378
PCT/IB/319	PCT/IB/351	PCT/IB/379
PCT/IB/320	PCT/IB/353	PCT/IB/399
PCT/IB/321	PCT/IB/354	
PCT/IB/323	PCT/IB/356	

(v) Forms for use by the International Preliminary Examining Authorities:

PCT/IPEA/402	PCT/IPEA/414	PCT/IPEA/440
PCT/IPEA/404	PCT/IPEA/415	PCT/IPEA/441
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PCT/IPEA/407	PCT/IPEA/420	PCT/IPEA/443
PCT/IPEA/408	PCT/IPEA/425	PCT/IPEA/444
PCT/IPEA/409	PCT/IPEA/431	
PCT/IPEA/412	PCT/IPEA/436	

(b) Slight variations in layout necessary in view of the printing of the Forms referred to in paragraph (a) in various languages are permitted.

(c) Slight variations in layout in the Forms referred to in paragraph (a)(ii) to (v) are permitted to the extent necessary to meet the particular office requirements of the International Authorities, in particular in view of the production of the Forms by computer or of the use of window envelopes.

(d) Where the receiving Office, the International Searching Authority and/or the International Preliminary Examining Authority are each part of the same Office, the obligation to use the Forms

referred to in paragraph (a) does not extend to communications within that same Office.

(e) The annexes to Forms PCT/RO/106, PCT/RO/118, PCT/ISA/201, PCT/ISA/205, PCT/ISA/206, PCT/ISA/210, PCT/ISA/219, PCT/IB/313, PCT/IB/336, PCT/IPEA/404, PCT/IPEA/405 and PCT/IPEA/415 may be omitted in cases where they are not used.

(f) The notes attached to Forms PCT/RO/101 (request Form), PCT/IB/375 (supplementary search request Form) and PCT/IPEA/401 (demand Form) shall be distributed by the International Authorities concerned together with the printed versions of those Forms. The notes attached to Form PCT/ISA/220 shall accompany the Form when sent to the applicant.

(g) The use of Forms other than those referred to in paragraph (a) is optional.

(h) Where the request or the demand is presented as a computer print-out, such print-out shall be prepared as follows:

(i) subject to subparagraph (ix), the layout and contents of the request and the demand when presented as computer print-outs shall correspond to the format of Forms PCT/RO/101 (request Form) and PCT/IPEA/401 (demand Form) ("the printed Forms"), with the same information being presented on the corresponding pages;

(ii) all boxes shall be drawn by solid lines; double lines may be presented as single lines;

(iii) the box numbers and box titles shall be included even where no information is supplied therein;

(iv) the boxes for use by the International Authorities shall be at least as large as those on the printed Forms;

(v) all other boxes shall be within one cm in size of those on the printed Forms;

(vi) all text shall be 9 points or larger in size;

(vii) titles and other information shall be clearly distinguished;

(viii) explanatory notes presented in italics on the printed Forms may be omitted;

(ix) the request and the demand when presented as computer print-outs may contain additional or alternative details concerning the means of communication with the applicant.

(i) Other formats permitted for the presentation of the request and the demand as computer print-outs may be determined by the Director General. Any such format shall be published in the Gazette.

(j) The page-based layout of a Form generated from a character-coded format shall be permitted if it is generated using a stylesheet provided by the International Bureau.

(k) A Form may be transmitted by one Office, International Authority or the International Bureau to another in character-coded format only, without its page based layout, if the recipient Office, Authority or Bureau has agreed to receive the information in such format and has agreed to generate any page based layout which may be required for the recipient Office's file records.

102 *bis* [Deleted]

103 Languages of the Forms Used by International Authorities

(a) The language of the Forms used by any receiving Office shall be the same as the language in which the international application is filed, provided that:

(i) where the international application is to be published in the language of a translation required under Rule 12.3(a) or 12.4(a), the receiving Office shall use the Forms in such language;

(ii) the receiving Office may, in its communications to the applicant, use the Forms in any other language being one of its official languages.

(b) Subject to Section 104(b), the language or languages of the Forms to be used by any International Searching Authority shall be specified in the applicable agreement referred to in Article 16(3)(b).

(c) Subject to Section 104(b), the language or languages of the Forms to be used by any International Preliminary Examining Authority shall be specified in the applicable agreement referred to in Article 32(3).

(d) The language of any Form used by the International Bureau shall be English where the

language of the international application is English, and it shall be French where the language of the international application is French. Where the language of the international application is neither English nor French, the language of any Form used by the International Bureau in its communications to any other International Authority shall be English or French according to the wishes of such Authority, and in its communications to the applicant it shall be English or French according to the wishes of the applicant.

104 Language of Correspondence

(a) The language of any letter from the applicant to the receiving Office shall be the same as the language of the international application to which such letter relates, provided that, where the international application is to be published in the language of a translation required under Rule 12.3(a) or 12.4(a), any letter shall be in such language. However, the receiving Office may expressly authorize the use of any other language.

(b) The language of any letter from an Office or Authority to the International Bureau shall be English where the language of the international application is English, and it shall be French where the language of the international application is French. Where the language of the international application is neither English nor French, the language of any letter to the International Bureau shall be English or French, provided that any copy, sent to the International Bureau as a notification addressed to it, of a Form sent to the applicant by the receiving Office, the International Searching Authority or the International Preliminary Examining Authority, does not require translation into English or French.

(c) Any communication from the applicant to the International Bureau using ePCT shall be in English, French or the language of publication. The Director General may determine that communications in such languages may also be submitted through other means of communication, and may additionally expand the languages permitted. Any such decisions by the Director General shall be published in the Gazette.

105 Identification of International Application with Two or More Applicants

Where any international application indicates two or more applicants, it shall be sufficient, for the purpose of identifying that application, to indicate, in any Form or correspondence relating to such application, the name of the applicant first named in the request. The provisions of the first sentence of this Section do not apply to the demand.

106 Change of Common Representative

Where a change is recorded under Rule 92 *bis*.1(a) in the person of an applicant who was considered to be the common representative under Rule 90.2(b), the new applicant shall be considered to be the common representative under Rule 90.2(b) if he is entitled according to Rule 19.1 to file an international application with the receiving Office.

107 Identification of International Authorities and of Designated and Elected Offices

(a) Whenever the nature of any communication from or to the applicant, from or to any International Authority or, before national processing or examination has started, from or to any designated or elected Office so permits, any International Authority or any designated or elected Office may be indicated in the communication by the two-letter code referred to in Section 115.

(b) The indication of a receiving Office, an International Searching Authority, an International Preliminary Examining Authority or a designated or elected Office shall be preceded by the letters “RO,” “ISA,” “IPEA,” “DO,” or “EO,” respectively, followed by a slant (e.g., “RO/JP,” “ISA/US,” “IPEA/SE,” “DO/EP,” “EO/AU”).

108 Correspondence Intended for the Applicant

(a) For the purpose of this Section, where there are two or more agents whose appointments are in force, “first mentioned agent” means the agent first mentioned in the document containing the appointments or, where the appointments are

contained in two or more documents, in that which was filed first.

(b) Where a sole applicant has appointed an agent or agents under Rule 90.1(a), correspondence intended for the applicant from the International Authorities shall, subject to paragraph (d), be addressed to the agent or, where applicable, to the first mentioned agent.

(c) Where there are two or more applicants, correspondence intended for the applicants from the International Authorities shall, subject to paragraph (d), be addressed:

(i) if no common agent has been appointed under Rule 90.1 —to the common representative or, where applicable, to his agent or first mentioned agent; or

(ii) if the applicants have appointed a common agent or common agents under Rule 90.1(a)—to that common agent or, where applicable, to the first mentioned common agent.

(d) Where an agent has or agents have been appointed under Rule 90.1(b), (c) or (d)(ii), paragraphs (b) and (c) shall apply to correspondence intended for the applicant relating to the procedure before the International Searching Authority or the International Preliminary Examining Authority, as the case may be, as if those paragraphs referred to the agent or agents so appointed.

(e) Where, in accordance with paragraph (c), correspondence intended for the applicants from the International Authorities is to be addressed to the common representative but the indication required under Rule 4.5(a)(ii) has not been provided for the common representative, correspondence shall be addressed:

(i) to the first applicant named in the request who is entitled according to Rule 19.1 to file an international application with the receiving Office and in respect of whom the indication required under Rule 4.5(a)(ii) has been provided; or, if there is no such applicant,

(ii) to the applicant first named in the request who is entitled according to Article 9 to file an international application and in respect of whom the indication required under Rule 4.5(a)(ii) has been provided; or, if there is no such applicant,

(iii) to the applicant first named in the request in respect of whom the indication required under Rule 4.5(a)(ii) has been provided.

109 File Reference

(a) Where any document submitted by the applicant contains an indication of a file reference, that reference shall not exceed 25 characters in length and may be composed of either letters of the Latin alphabet, or Arabic numerals, or both. The hyphen character ("-") may also be used as a separator between alphanumeric characters.

(b) Correspondence from International Authorities intended for the applicant shall indicate any such file reference.

110 Dates

Any date in the international application, or used in any correspondence emanating from International Authorities relating to the international application, shall be indicated by the Arabic number of the day, by the name of the month, and by the Arabic number of the year. The receiving Office, where the applicant has not done so, or the International Bureau, where the applicant has not done so and the receiving Office fails to do so, shall, after, above, or below any date indicated by the applicant in the request, repeat the date, in parentheses, by indicating it by two-digit Arabic numerals each for the number of the day and for the number of the month followed by the number of the year in four digits, in that order and with a period, slant or hyphen after the digit pairs of the day and of the month (for example, “20 March 2004 (20.03.2004),” “20 March 2004 (20/03/2004),” or “20 March 2004 (20-03-2004)”).

111 Excuse of Delay in Meeting Time Limits and Extension of Time Limits under Rule 82 *quater*

(a) Where the receiving Office, the International Searching Authority, the Authority specified for supplementary search, the International Preliminary Examining Authority, or the International Bureau receives a request under Rule 82 *quater*.1 or Rule 82 *quater*.2 for the excuse of a delay in meeting a time limit, it shall promptly:

(i) communicate its decision whether or not to excuse such a delay to the interested party; and

(ii) where applicable, transmit a copy of such a request, a copy of any evidence or statement furnished and a copy of of its decision to the International Bureau.

(b) An interested party desiring to have delays excused due to general unavailability of electronic communications services under Rule 82 *quater*.1 must establish that the outage of electronic communications services affected a widespread geographical area rather than being a localized problem, that it was unexpected or unforeseen, and that there was no alternative communication means available to him.

(b-bis) The International Bureau shall promptly publish any waiver notified to it under Rule 82 *quater*.1(d) in the Gazette.

(c) Where any Office that acts as the receiving Office, the International Searching Authority, the Authority specified for supplementary search, or the International Preliminary Examining Authority provides for the excuse of a delay in meeting time limits due to the unavailability of electronic means of communication at that Office under Rule 82 *quater*.2, it shall notify the International Bureau accordingly. The International Bureau shall promptly publish this information in the Gazette.

(d) Where the International Bureau provides for the excuse of a delay in meeting time limits due to the unavailability of electronic means of communication at the Bureau under Rule 82 *quater*.2, it shall publish this information in the Gazette.

(e) The International Bureau shall also promptly publish in the Gazette any notification received by it under Rule 82 *quater*.2(a), last sentence.

(f) Where the receiving Office, the International Searching Authority, the Authority specified for supplementary search, the International Preliminary Examining Authority, or the International Bureau establishes a period of extension or additional period of extension under Rule 82 *quater*.3, any time limit fixed in the Regulations for performing a particular action before that specific Office, Authority or the International Bureau which would expire during that period shall, subject to Rule 80.5, expire on the first day after the expiration of that period.

(g) The International Bureau shall promptly publish in the Gazette any notification of a period of extension or additional period of extension received by it under Rule 82 *quater*.3.

112 Ceasing of Effect under Articles 24(1)(iii) and 39(2), Review under Article 25(2) and Maintaining of Effect under Articles 24(2) and 39(3)

(a) Each national Office shall, in its capacity as designated Office, notify the International Bureau once a year of:

(i) the number of international applications in respect of which, during the preceding calendar year, the time limit applicable under Article 22 has expired;

(ii) the number of international applications in respect of which, during the preceding calendar year, the requirements provided for in Article 22 have not been complied with before the expiration of the time limit applicable under that Article, with the consequence that the effects of the international applications concerned have ceased under Article 24(1)(iii).

(b) Each national Office shall, in its capacity as elected Office, notify the International Bureau once a year of:

(i) the number of international applications in respect of which, during the preceding calendar year, the time limit applicable under Article 39(1) has expired;

(ii) the number of international applications in respect of which, during the preceding calendar year, the requirements provided for in Article 39(1) have not been complied with before the expiration of the time limit applicable under that Article, with the consequence that the effects of the international applications concerned have ceased under Article 39(3).

(c) Where, under Article 25(2), the designated Office decides that the refusal, declaration or finding referred to in Article 25(1) was not justified, it shall promptly notify the International Bureau that it will treat the international application as if the error or omission referred to in Article 25(2) had not occurred. The notification shall preferably contain the reasons for the decision of the designated Office.

(d) Where, under Article 24(2) or under Article 39(3), the designated or elected Office maintains the effect provided for in Article 11(3), it shall promptly notify the International Bureau accordingly. The notification shall preferably contain the reasons for the decision of the designated or elected Office.

113 Special Fees Payable to the International Bureau

(a) The special publication fee provided for in Rule 48.4 shall be 200 Swiss francs.

(b) The special fee provided for in Rule 91.3(d) shall be payable to the International Bureau and shall be 50 Swiss francs plus 12 Swiss francs for each sheet in excess of one. Where that fee has not been paid prior to the expiration of the time limit under Rule 91.3(d), the request for rectification, the reasons for refusal by the authority and any further brief comments submitted by the applicant shall not be published. Where the last sentence of Rule 91.3(d) applies and the said fee has not been paid before the time of the communication of the international application under Article 20, a copy of the request for rectification shall not be included in that communication.

(c) The special fee provided for in Rule 26 *bis*.2(e) shall be payable to the International Bureau and shall be 50 Swiss francs plus 12 Swiss francs for each sheet in excess of one.

114 Notification and Transfer of Fees

The notification of the receipt of fees under Rule 96.2(b) and the transfer of fees under Rule 96.2(c) shall be carried out in accordance with Annex G.

115 Indications of States, Territories and Intergovernmental Organizations

The indication of a State, territory, or intergovernmental organization shall be made either by its full name, by a generally accepted short title which, if the indications are in English or French, shall be as appears in WIPO Standard ST.3 (Recommended Standard Two-Letter Code for the Representation of Countries, and of Other Entities and International Organizations Issuing or Registering Industrial Property Titles), or by the two-letter code as appears in that Standard. [1]

PART 2

INSTRUCTIONS RELATING TO THE INTERNATIONAL APPLICATION

201 Language of the International Application

The language in which the international application is filed shall preferably be indicated in the request.

202 [Deleted]

203 Different Applicants for Different Designated States

(a) Different applicants may be indicated for different States designated for a regional patent.

(b) Where a particular State has been designated for both a national patent and a regional patent, the same applicant or applicants shall be indicated for both designations.

204 Headings of the Parts of the Description

(a) The headings of the parts of the description shall preferably be as follows:

(i) for matter referred to in Rule 5.1(a)(i), "Technical Field";

(ii) for matter referred to in Rule 5.1(a)(ii), "Background Art";

(iii) for matter referred to in Rule 5.1(a)(iii), "Disclosure of Invention" or "Summary of Invention";

(iv) for matter referred to in Rule 5.1(a)(iv), "Brief Description of Drawings";

(v) for matter referred to in Rule 5.1(a)(v), "Best Mode for Carrying out the Invention," or,

[1] *Editor's Note: Published in the WIPO Handbook on Industrial Property Information and Documentation.*

where appropriate, “Mode(s) for Carrying out the Invention” or “Description of Embodiments”;

(vi) for matter referred to in Rule 5.1(a)(vi), “Industrial Applicability”.

(vii) *[Deleted]*

(viii) *[Deleted]*

(b) The heading “Title of Invention” shall preferably precede the title of the invention.

204 *bis* Numbering of Claims

The number of each claim referred to in Rule 6.1(b) shall preferably be preceded by the expression “Claim” (for example, “Claim 1”, “Claim 2”, “Claim 3”).

205 Numbering and Identification of Claims upon Amendment

(a) Amendments to the claims under Article 19 or Article 34(2)(b) may be made either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed. Where a claim is cancelled, no renumbering of the other claims shall be required. In all cases where claims are renumbered, they shall be renumbered consecutively in Arabic numerals.

(b) The applicant shall, in the letter referred to in Rule 46.5(b) or Rule 66.8(c), indicate the differences between the claims as filed and the claims as amended or, as the case may be, differences between the claims as previously amended and currently amended. He shall, in particular, indicate in the said letter, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped), whether:

(i) the claim is unchanged;

(ii) the claim is cancelled;

(iii) the claim is new;

(iv) the claim replaces one or more claims as filed;

(v) the claim is the result of the division of a claim as filed;

(vi) the claim replaces one or more claims as previously amended;

(vii) the claim is the result of the division of a claim as previously amended.

206 Unity of Invention

The determination by the International Searching Authority, the International Preliminary Examining Authority and the designated and elected Offices whether an international application complies with the requirement of unity of invention under Rule 13 shall be made in accordance with Annex B.

207 Arrangement of Elements and Numbering of Sheets of the International Application

(a) In effecting the sequential numbering of the sheets of the international application in accordance with Rule 11.7, the elements of the international application shall be placed in the following order:

(i) the request;

(ii) the description excluding the sequence listing part of the description referred to in Rule 5.2(a);

(iii) the claims;

(iv) the abstract;

(v) if applicable, the drawings.

(vi) [Deleted]

Any sequence listing part of the description shall be presented in a separate electronic file in accordance with Annex C.

(b) The sequential numbering of the sheets shall be effected by using the following separate series of numbering:

(i) the first series applying to the request only and commencing with the first sheet of the request;

(ii) the second series commencing with the first sheet of the description (as referred to in paragraph (a)(ii)) and continuing through the claims until the last sheet of the abstract;

(iii) if applicable, a further series applying to the sheets of the drawings only and commencing with the first sheet of the drawings; the number of each sheet of the drawings shall consist of two

Arabic numerals separated by a slant, the first being the sheet number and the second being the total number of sheets of drawings (for example, 1/3, 2/3, 3/3).

208 Sequence Listings

Any sequence listing, whether forming part of the international application or not forming part of the international application, shall comply with Annex C. Sequences and references to sequences included in the main part of the description, claims and drawings shall also comply with Annex C.

209 Indications as to Deposited Biological Material on a Separate Sheet

(a) To the extent that any indication with respect to deposited biological material is not contained in the description, it may be given on a separate sheet. Where any such indication is so given, it shall preferably be on Form PCT/RO/134 and, if furnished at the time of filing, the said Form shall, subject to paragraph (b), preferably be attached to the request and referred to in the check list referred to in Rule 3.3(a)(ii).

(b) For the purposes of designated Offices, which have so notified the International Bureau under Rule 13 *bis*.7(a), paragraph (a) applies only if the said Form or sheet is included as one of the sheets of the description of the international application at the time of filing.

210 [Deleted]

211 Declaration as to the Identity of the Inventor

(a) Any declaration as to the identity of the inventor, referred to in Rule 4.17(i), shall be worded as follows:

"Declaration as to the identity of the inventor (Rules 4.17(i) and 51 *bis*.1(a)(i)):

in relation to [this] international application [No. PCT/…], … *(name)* of … *(address)* is the inventor of the subject matter for which protection is sought by way of [the] [this] international application"

(b) This declaration need not be made if the name and address of the inventor are otherwise indicated in the request.

(c) This declaration may, where applicable, be combined, in accordance with Section 212(b), with the declaration referred to in Section 212(a).

212 Declaration as to the Applicant's Entitlement to Apply for and Be Granted a Patent

(a) Any declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent, referred to in Rule 4.17(ii), shall be worded as follows, with such inclusion, omission, repetition and re-ordering of the matters listed as items (i) to (viii) as is necessary to explain the applicant's entitlement:

"Declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent (Rules 4.17(ii) and 51 *bis*.1(a)(ii)), in a case where the declaration under Rule 4.17(iv) is not appropriate:

in relation to [this] international application [No. PCT/…],

… *(name)* is entitled to apply for and be granted a patent by virtue of the following:

(i) ... *(name)* of ... *(address)* … is the inventor of the subject matter for which protection is sought by way of [the] [this] international application

(ii) … *(name)* [is] [was] entitled as employer of the inventor, … *(inventor's name)*

(iii) an agreement between … *(name)* and … *(name)*, dated …

(iv) an assignment from … *(name)* to … *(name)*, dated …

(v) consent from … *(name)* in favor of … *(name)*, dated …

(vi) a court order issued by … *(name of court)*, effecting a transfer from … *(name)* to … *(name)*, dated …

(vii) transfer of entitlement from … *(name)* to … *(name)* by way of … *(specify kind of transfer)*, dated ...

(viii) the applicant's name changed from … *(name)* to … *(name)* on … *(date)*"

(b) The declaration referred to in paragraph (a) may, where applicable, be combined with the declaration referred to in Section 211(a), in which case the introductory phrase shall be worded as follows and the remainder of the combined declaration shall be worded as prescribed in paragraph (a):

"Combined declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent (Rules 4.17(ii) and 51 *bis*.1(a)(ii)) and as to the identity of the inventor (Rules 4.17(i) and 51 *bis*.1(a)(i)), in a case where the declaration under Rule 4.17(iv) is not appropriate:"

213 Declaration as to the Applicant's Entitlement to Claim Priority of Earlier Application

Any declaration as to the applicant's entitlement, as at the international filing date, to claim priority of the earlier application, referred to in Rule 4.17(iii) , shall be worded as follows, with such inclusion, omission, repetition and re-ordering of the matters listed as items (i) to (viii) as is necessary to explain the applicant's entitlement:

"Declaration as to the applicant's entitlement, as at the international filing date, to claim the priority of the earlier application specified below, where the applicant is not the applicant who filed the earlier application or where the applicant's name has changed since the filing of the earlier application (Rules 4.17(iii) and 51 *bis*.1(a)(iii)):

in relation to [this] international application [No. PCT/…],

... *(name)* is entitled to claim priority of earlier application No. … by virtue of the following:

(i) the applicant is the inventor of the subject matter for which protection was sought by way of the earlier application

(ii) … *(name)* [is] [was] entitled as employer of the inventor, … *(inventor's name)*

(iii) an agreement between … *(name)* and … *(name)*, dated …

(iv) an assignment from … *(name)* to … *(name)*, dated …

(v) consent from … *(name)* in favor of … *(name)*, dated …

(vi) a court order, issued by …. *(name of court)*, effecting a transfer from … *(name)* to … *(name)*, dated …

(vii) transfer of entitlement from … *(name)* to … *(name)* by way of … *(specify kind of transfer)*, dated …

(viii) the applicant's name changed from … *(name)* to … *(name)* on … *(date)*"

214 Declaration of Inventorship

(a) A declaration of inventorship, referred to in Rule 4.17(iv), that is made for the purposes of the designation of the United States of America shall be worded as follows:

"Declaration of inventorship (Rules 4.17(iv) and 51 *bis*.1(a)(iv)) for the purposes of the designation of the United States of America:

I hereby declare that I believe I am the original inventor or an original joint inventor of a claimed invention in the application.

This declaration is directed to the international application of which it forms a part (if filing declaration with application).

This declaration is directed to international application No. PCT/… (if furnishing declaration pursuant to Rule 26 *ter*).

I hereby declare that the above-identified international application was made or authorized to be made by me.

I hereby acknowledge that any willful false statement made in this declaration is punishable under 18 U.S.C. 1001 by fine or imprisonment of not more than five (5) years, or both.

Name: …

Residence: … (city and either US state, if applicable, or country)

Mailing Address: …

Inventor's Signature: … (The signature must be that of the inventor, not that of the agent)

Date: …"

(b) Where there is more than one inventor and all inventors do not sign the same declaration referred to in paragraph (a), each declaration shall indicate the names of all the inventors.

(c) Any correction or addition under Rule 26 *ter*.1 of a declaration referred to in paragraph (a) shall take the form of a declaration referred to in that paragraph and be signed by the inventor. In addition, any such correction should be entitled "Supplemental declaration of inventorship (Rules 4.17(iv) and 51 *bis*.1(a)(iv))".

215 Declaration as to Non-Prejudicial Disclosures or Exceptions to Lack of Novelty

Any declaration as to non-prejudicial disclosures or exceptions to lack of novelty shall be worded as follows, with such inclusion, omission, repetition and re-ordering of the matters listed as items (i) to (iv) as is necessary:

"Declaration as to non-prejudicial disclosures or exceptions to lack of novelty (Rules 4.17(v) and 51 *bis*.1(a)(v)):

in relation to [this] international application [No. PCT/…],

… *(name)* declares that the subject matter claimed in [the] [this] international application was disclosed as follows:

(i) kind of disclosure *(include as applicable)*:

(a) international exhibition

(b) publication

(c) abuse

(d) other: ... *(specify)*

(ii) date of disclosure: ...

(iii) title of disclosure (*if applicable*): ...

(iv) place of disclosure (*if applicable*): ..."

216 Notice of Correction or Addition of a Declaration under Rule 26ter

Any notice referred to in Rule 26 *ter*.1 shall consist of a replacement sheet containing a corrected declaration, or of an additional sheet containing a declaration, and an accompanying letter explaining the correction or addition.

217 Corrections Concerning Expressions, Etc., Not to Be Used in the International Application under Rule 9.2

(a) Where the receiving Office, the International Searching Authority or the Authority specified for supplementary search receives corrections aimed at complying with Rule 9.1, it shall:

(i) indelibly mark, in the upper right-hand corner of each replacement sheet, the international application number and the date on which that sheet was received;

(ii) indelibly mark, in the middle of the bottom margin of each replacement sheet, the words "SUBSTITUTE SHEET (RULE 9.2)" or their equivalent in the language of publication of the international application;

(iii) indelibly mark on the letter containing the correction or accompanying any replacement sheet the date on which that letter was received;

(iv) keep in its files a copy of the letter containing the correction or, when the correction is contained in a replacement sheet, the replaced sheet, a copy of the letter accompanying the replacement sheet, and a copy of the replacement sheet;

(v) unless the circumstances in item (vi) apply, promptly transmit any letter and any replacement sheet to the International Bureau and a copy thereof to the receiving Office, the International Searching Authority and the Authority specified for supplementary search, as applicable;

(vi) where transmittals under Article 12(1) have not yet been made, the receiving Office shall transmit any letter and any replacement sheet to the International Bureau together with the record copy and, except where the international application is considered withdrawn and Rule 29.1(iii) applies, a copy of the said letter or replacement sheet to the International Searching Authority together with the search copy. The record copy and the search copy shall contain any replaced sheet.

(b) Where the International Bureau receives corrections under paragraph (a) from the receiving Office, the International Searching Authority or the Authority specified for supplementary search, the International Bureau shall transfer the correction to the record copy, together with the indication of the date on which the Office or Authority received the letter, or shall insert the replacement sheet in the record copy. Any letter and any replaced sheet shall be kept in the file of the international application. Where the International Bureau receives corrections under paragraph (a) from the receiving Office or the International Searching Authority, it shall, where applicable, promptly transmit a copy of any letter and replacement sheet to the Authority specified for supplementary search.

(c) Where the International Bureau receives from the applicant corrections aimed at complying with Rule 9.1, it shall:

(i) indelibly mark, in the upper right-hand corner of each replacement sheet, the international application number and the date on which that sheet was received;

(ii) indelibly mark, in the middle of the bottom margin of each replacement sheet, the words "SUBSTITUTE SHEET (RULE 9.2)" or their equivalent in the language of publication of the international application;

(iii) indelibly mark on the letter containing the correction or accompanying any replacement sheet the date on which that letter was received;

(iv) keep in its files the letter containing the correction or, when the correction is contained in a replacement sheet, the replaced sheet, the letter accompanying the replacement sheet and, the replacement sheet;

(v) promptly transmit a copy of any letter and any replacement sheet to the receiving Office, the International Searching Authority and the Authority specified for supplementary search, as applicable.

218 Processing of a Request for Omission of Information Referred to in Rules 48.2(l) and 94.1(e)

(a) Where the International Bureau decides to omit information from international publication under Rule 48.2(l) or not to provide access to information contained in its file under Rule 94.1(e), it shall:

(i) indelibly mark, in the upper right-hand corner of each replacement sheet, the international application number and the date on which that sheet was received;

(ii) indelibly mark, in the middle of the bottom margin of each replacement sheet, the words "SUBSTITUTE SHEET (RULE 48.2(l))" (where the replacement sheet contains an omission under Rule 48.2(l)) or "SUBSTITUTE SHEET (RULE 94.1(e))" (where the replacement sheet contains an omission under Rule 94.1(e)) or their equivalent in the language of publication of the international application;

(iii) indelibly mark on the letter containing the omission or accompanying any replacement sheet the date on which that letter was received;

(iv) keep in its files the letter containing the proposed omission or, where the proposed omission is contained in a replacement sheet, the replaced sheet, the letter accompanying the replacement sheet, and the replacement sheet;

(v) promptly transmit a copy of any replacement sheet to the receiving Office, the International Searching Authority, the Authority specified for supplementary search or the International Preliminary Examining Authority (where the replaced sheet is also contained in the file of the international application held by that Office or Authority).

(b) Where the International Bureau decides not to omit information from international publication under Rule 48.2(l) or to provide access to information contained in its file under Rule 94.1(e), it shall proceed as indicated under paragraph (a)(i), (iii) and (iv).

(c) Section 311, paragraphs (a) to (c) shall apply *mutatis mutandis* to any deletion, substitution or addition of a sheet of the international application received by the International Bureau.

PART 3

INSTRUCTIONS RELATING TO THE RECEIVING OFFICE

301 Notification of Receipt of Purported International Application

Before the determination under Article 11(1), the receiving Office may notify the applicant of the receipt of the purported international application. The notification should indicate the date of actual receipt and the international application number of the purported international application referred to in Section 307 as well as, where useful for purposes of identification, the title of the invention.

302 Priority Claim Considered Not to Have Been Made

Where the receiving Office declares, under Rule 26 *bis*.2(b), that a priority claim is considered not to have been made, that Office shall enclose the priority claim concerned within square brackets, draw a line between the square brackets, while still leaving legible the indications concerned, and enter, in the margin, the words "NOT TO BE CONSIDERED FOR PCT PROCEDURE (RO)" or their equivalent in the language of publication of the international application, and shall notify the applicant accordingly. If copies of the international application have already been sent to the International Bureau and the International Searching Authority, the receiving Office shall also notify that Bureau and that Authority.

303 Deletion of Additional Matter in the Request

(a) Where, under Rule 4.19(b), the receiving Office deletes *ex officio* any matter contained in the request, it shall do so by enclosing such matter

within square brackets and entering, in the margin, the words "DELETED BY RO" or their equivalent in the language of publication of the international application, and shall notify the applicant accordingly. If copies of the international application have already been sent to the International Bureau and the International Searching Authority, the receiving Office shall also notify that Bureau and that Authority.

(b) The receiving Office shall not delete *ex officio* any indication made in declarations referred to in Rule 4.17 which are contained in the request.

304 Invitation to Pay Fees before Date on Which They Are Due

If the receiving Office finds, before the date on which they are due, that the transmittal fee, the international filing fee (including any supplement per sheet over 30) or the search fee are lacking in whole or in part, it may invite the applicant to pay the missing amounts within one month from the date of receipt of the international application.

305 Identifying the Copies of the International Application

(a) Where, under Rule 11.1(a), the international application has been filed in one copy, the receiving Office shall, after preparing under Rule 21.1(a) the additional copies required under Article 12(1), mark,

(i) the words "RECORD COPY" in the upper left-hand corner of the first page of the original copy,

(ii) in the same space on one additional copy, the words "SEARCH COPY," and

(iii) in the same space on the other such copy, the words "HOME COPY," or their equivalent in the language of publication of the international application.

(b) Where, under Rule 11.1(b), the international application has been filed in more than one copy, the receiving Office shall choose the copy most suitable for reproduction purposes, and mark the words "RECORD COPY," or their equivalent in the language of publication of the international application, in the upper left-hand corner of its first page. After verifying the identity of any additional copies and, if applicable, preparing under Rule 21.1(b) the home copy, it shall mark, in the upper left-hand corner of the first page of one such copy, the words "SEARCH COPY," and, in the same space on the other such copy, the words "HOME COPY," or their equivalent in the language of publication of the international application.

305 *bis* Preparation, Identification and Transmittal of the Copies of the Translation of the International Application

(a) Where a translation of the international application is furnished under Rule 12.3, the receiving Office shall:

(i) be responsible for the prompt preparation of any additional copies required where the translation is furnished in less than the number of copies required for the purposes of this paragraph, and shall have the right to fix a fee for performing that task and to collect such fee from the applicant;

(ii) mark the words "RECORD COPY - TRANSLATION (RULE 12.3)" in the upper left-hand corner of the first page of the original copy of the translation and transmit that copy to the International Bureau;

(iii) mark the words "SEARCH COPY - TRANSLATION (RULE 12.3)" in the same space on one additional copy of the translation which, together with a copy of the request marked "SEARCH COPY" under Section 305(a)(ii), is considered pursuant to Rule 23.1(b) to be the search copy, and transmit such search copy to the International Searching Authority; and

(iv) mark the words "HOME COPY- TRANSLATION (RULE 12.3)" in the same space on the other such copy of the translation, and keep that copy in its files.

(b) The receiving Office may, when marking the copies of the translation under paragraph (a), use, instead of the words referred to in that paragraph, the equivalent of those words in the language of publication of the international application.

(c) Where a translation of the international application is furnished under Rule 12.4, the receiving Office shall:

(i) be responsible for the prompt preparation of any additional copies required where the translation is furnished in less than the number of copies required for the purposes of this paragraph,

and shall have the right to fix a fee for performing that task and to collect such fee from the applicant;

(ii) mark the words "RECORD COPY – TRANSLATION (RULE 12.4)" in the upper left-hand corner of the first page of the original copy of the translation and transmit that copy to the International Bureau; and

(iii) mark the words "HOME COPY – TRANSLATION (RULE 12.4)" in the same space on the other such copy of the translation, and keep that copy in its files.

305 *ter* Identification and Transmittal of the Translation of an Earlier Application Furnished under Rule 20.6(a)(iii)

Where a translation of an earlier application is furnished under Rule 20.6(a)(iii), the receiving Office shall mark the words "TRANSLATION OF EARLIER APPLICATION (RULE 20.6(a)(iii))" in the upper left-hand corner of the first page of the translation and, after having made a finding under Rule 20.6(b) or (c), transmit the translation to the International Bureau.

306 Delayed Transmittal of Search Copy

Where the search copy will be transmitted to the International Searching Authority after the date on which the record copy is transmitted to the International Bureau, the receiving Office shall notify the International Bureau. The notification may be made by marking a check-box provided for this purpose on the request.

307 System of Numbering International Applications

Papers purporting to be an international application under Rule 20.1(a) shall be allocated an international application number, consisting of the letters "PCT," a slant, the two-letter code referred to in Section 115, indicating the receiving Office, a four-digit indication of the year in which such papers were first received, a slant and a six-digit number, allotted in sequential order corresponding to the order in which the international applications are received (e.g., "PCT/SE2004/000001"). Where the International Bureau acts as receiving Office, the two-letter code "IB" shall be used.

308 Marking of the Sheets of the International Application and of the Translation Thereof

(a) Upon receipt of papers purporting to be an international application, the receiving Office shall indelibly mark the date of actual receipt on the request of each copy received.

(b) The receiving Office shall indelibly mark the international application number referred to in Section 307 in the upper right-hand corner of each sheet of each copy of the purported international application and of any translation of the international application furnished under Rule 12.3 or 12.4.

(c) If a positive determination is made under Rule 20.2, the receiving Office shall mark on the request the name of the receiving Office and the words "PCT International Application" or "Demande internationale PCT". If the official language of the receiving Office is neither English nor French, the words "International Application" or "Demande internationale" may be accompanied by a translation of these words in the official language of the receiving Office.

(d) If a negative determination is made under Rule 20.4 or a declaration is made under Article 14(4), the letters "PCT" shall be deleted by the receiving Office from the indication of the international application number on any papers marked previously with that number, and the said number shall be used without such letters in any future correspondence relating to the purported international application.

308 *bis* Marking of Later Submitted Sheets

The receiving Office shall indelibly mark any sheet containing an element referred to in Article 11(1)(iii)(d) or (e), or a part referred to in Rule 20.5(a) or an element or part referred to in Rule 20.5 *bis*(a), received on a date later than the date on which sheets were first received ("later submitted sheet"), in the upper right-hand corner of each sheet, with the international application number referred to in Section 307 and the date of actual receipt of that sheet.

309 Procedure in the Case of Later Submitted Sheets Furnished for the Purposes of Incorporation by Reference

(a) This Section applies, subject to paragraph (f), to later submitted sheets which accompany a notice confirming under Rule 20.6 that an element or part embodied in those sheets was incorporated by reference.

(b) Where later submitted sheets as referred to in paragraph (a) are received within the applicable time limit referred to in Rule 20.7 and the receiving Office makes a finding under Rule 20.6(b), the receiving Office shall:

(i) indelibly mark, in the middle of the bottom margin of each later submitted sheet, the words “INCORPORATED BY REFERENCE (RULE 20.6)”, or their equivalent in the language of publication of the international application;

(ii) notify the applicant that the element or part contained in the later submitted sheets is considered to have been contained in the international application or purported international application on the date when sheets were first received and that that date has been accorded or retained, as the case may be, as the international filing date;

(iii) keep in its files a copy of the later submitted sheets marked under item (i) and of the notice under Rule 20.6(a);

(iv) where the later submitted sheets are furnished under Rule 20.5 *bis* to correct any sheets that have been erroneously filed ("erroneously filed sheets"), indelibly mark, in the middle of the bottom margin of each erroneously filed sheet, the words "ERRONEOUSLY FILED (RULE 20.5 *bis*)", or their equivalent in the language of publication of the international application, and move the erroneously filed sheets to the end of the corresponding element of the purported international application;

(v) where transmittals under Article 12(1) have already been made, notify the International Bureau and the International Searching Authority accordingly, and transmit the later submitted sheets marked under item (i) and the notice under Rule 20.6(a) to the said Bureau and a copy thereof to the said Authority; and

(vi) where transmittals under Article 12(1) have not yet been made, attach the later submitted sheets marked under item (i) and the notice under Rule 20.6(a) to the record copy and a copy thereof to the search copy.

(c) Where later submitted sheets referred to in paragraph (a) are received within the applicable time limit referred to in Rule 20.7 and the receiving Office makes a finding under Rule 20.6(c), the receiving Office shall, subject to Section 310 *bis*:

(i) effect the required correction of the international filing date or accord as the international filing date the date of receipt of the later submitted sheets;

(ii) notify the applicant that the content of the later submitted sheets is not considered to have been contained in the international application or purported international application on the date when sheets were first received and that the international filing date has been accorded as, or corrected to, as the case may be, the date on which the new sheets were received;

(iii) keep in its files a copy of the later submitted sheets and of the notice under Rule 20.6(a);

(iv) where the later submitted sheets are furnished under Rule 20.5 *bis* to correct any erroneously filed sheets, remove the erroneously filed sheets from the international application and notify the applicant accordingly, and keep a copy of the removed sheets in the file;

(v) where transmittals under Article 12(1) have already been made, notify the International Bureau and the International Searching Authority accordingly and transmit a copy of the corrected first and last sheets of the request, the later submitted sheets and the notice under Rule 20.6(a) to the said Bureau and a copy thereof to the said Authority; and

(vi) where transmittals under Article 12(1) have not yet been made, attach the later submitted sheets and the notice under Rule 20.6(a) to the record copy and a copy thereof to the search copy.

(d) Where later submitted sheets referred to in paragraph (a) are received within the applicable time limit referred to in Rule 20.7 but the purported international application still does not fulfill the requirements of Article 11(1), the receiving Office

shall proceed as provided in Rule 20.4, but not before the expiration of the time limit under Rule 20.7.

(e) Where later submitted sheets referred to in paragraph (a) are received after the expiration of the applicable time limit referred to in Rule 20.7, the receiving Office shall proceed as provided in Section 310 *ter* .

(f) Where later submitted sheets referred to in paragraph (a) are received but a missing element or part contained in those sheets cannot be incorporated by reference in the international application under Rules 4.18 and 20.6 because of the operation of Rule 20.8(a), the receiving Office shall:

(i) inform the applicant that the notice under Rule 20.6(a) confirming the incorporation by reference of the missing element or part has been disregarded;

(ii) proceed in accordance with Section 310(b), which shall apply *mutatis mutandis*, as if the notice under Rule 20.6(a) were a correction furnished under Rule 20.3(b)(i), or a missing part furnished under Rule 20.5(b) or (c), as the case may be; and

(iii) proceed in accordance with Section 310 *bis*(b) where the applicant requests, within the time limit under Rule 20.5(e), that the missing part concerned be disregarded.

(g) Where later submitted sheets referred to in paragraph (a) are furnished under Rule 20.5 *bis* to correct any erroneously filed element or part but the correct element or part embodied in those sheets cannot be incorporated by reference in the international application under Rules 4.18 and 20.6 because of the operation of Rule 20.8(a- *bis*), the receiving Office shall:

(i) subject to subparagraph (ii), transmit the international application to the International Bureau as receiving Office;

(ii) if the applicant does not authorize the transmittal of the international application under Rule 19.4(a)(iii) or does not pay the required fee within the applicable time limit, proceed in accordance with Section 333(c) and apply the procedure provided in paragraph (f) *mutatis mutandis* as if the notice under Rule 20.6(a) were a correction furnished under Rule 20.5 *bis*(b) or (c), as the case may be.

310 Procedure in the Case of Later Submitted Sheets Not Furnished for the Purposes of Incorporation by Reference

(a) This Section applies to later submitted sheets which do not accompany a notice confirming under Rule 20.6 that an element or part embodied in those sheets was incorporated by reference.

(b) Where later submitted sheets as referred to in paragraph (a) are received within the applicable time limit referred to in Rule 20.7 and where the international filing date is to be accorded under Rule 20.3(b)(i), 20.5(b) or 20.5 *bis*(b), or corrected under Rule 20.5(c) or 20.5 *bis*(c), the receiving Office shall, subject to Section 310 *bis* :

(i) accord the international filing date in accordance with Rule 20.3(b)(i), 20.5(b) or 20.5 *bis*(b), or effect the required correction of the international filing date in accordance with Rule 20.5(c) or 20.5 *bis*(c), as the case may be;

(ii) notify the applicant of the correction or the according of the international filing date effected under item (i);

(iii) keep in its files a copy of the later submitted sheets;

(iv) where the later submitted sheets are furnished under Rule 20.5 *bis* to replace any erroneously filed sheets, remove the erroneously filed sheets from the international application and notify the applicant accordingly, and keep a copy of the removed sheets in the file;

(v) where transmittals under Article 12(1) have already been made, notify the International Bureau and the International Searching Authority accordingly and transmit a copy of the corrected first and last sheets of the request and the later submitted sheets to the said Bureau and a copy thereof to the said Authority; and

(vi) where transmittals under Article 12(1) have not yet been made, attach the later submitted sheets to the record copy and a copy thereof to the search copy.

(c) Where later submitted sheets referred to in paragraph (a) are received within the applicable time limit referred to in Rule 20.7 but the purported international application still does not fulfill the requirements of Article 11(1), the receiving Office shall proceed as provided in Rule 20.4.

(d) Where later submitted sheets referred to in paragraph (a) are received after the expiration of the applicable time limit referred to in Rule 20.7, the receiving Office shall proceed as provided in Section 310 *ter* .

310 *bis* Procedure in the Case of Later Submitted Sheets Resulting in the Correction of the International Filing Date under Rule 20.5(c) or 20.5 *bis*(c)

(a) Where, following the receipt of later submitted sheets referred to in Sections 309(a) or 310(a) within the applicable time limit referred to in Rule 20.7, the international filing date has been corrected under Rule 20.5(c) or 20.5 *bis*(c), the receiving Office shall, in addition to proceeding under Section 309(c)(i) to (iii), or 310(b)(i) to (iii), as the case may be:

(i) draw the attention of the applicant to the procedure available under Rule 20.5(e) or 20.5 *bis*(e), as the case may be;

(ii) proceed under Section 309(c)(iv) to (vi), or 310(b)(iv) to (vi), as the case may be, but only after the expiration of the time limit under Rule 20.5(e) or 20.5 *bis*(e) and only where the applicant has not made a request under that Rule.

(b) Where the applicant requests within the time limit under Rule 20.5(e) or 20.5 *bis*(e) that the missing part or the correct element or part concerned be disregarded, the receiving Office shall:

(i) restore the international filing date to that which had applied prior to its correction under Rule 20.5(c) or 20.5 *bis*(c);

(ii) indelibly mark, in the middle of the bottom margin of each sheet containing the missing part concerned, the words "NOT TO BE CONSIDERED (RULE 20.5(e))", or in the middle of the bottom margin of each sheet embodying the correct element or part concerned, the words "NOT TO BE CONSIDERED (RULE 20.5bis(e))", as the case may be, or their equivalent in the language of publication of the international application;

(iii) notify the applicant that the missing part or the correct element or part is considered not to have been furnished and that the international filing date has been restored to that which had applied prior to its correction under Rule 20.5(c) or 20.5 *bis*(c);

(iv) keep in its files a copy of the later submitted sheets marked under item (ii) and of the request made under Rule 20.5(e) or 20.5 *bis*(e);

(v) where transmittals under Article 12(1) have already been made, notify the International Bureau and the International Searching Authority accordingly, and transmit the later submitted sheets marked under item (ii), the notice under Rule 20.6(a) and the request made under Rule 20.5(e) or 20.5 *bis*(e) to the said Bureau and a copy thereof to the said Authority;

(vi) where transmittals under Article 12(1) have not yet been made, notify the International Bureau accordingly and attach the later submitted sheets marked under item (ii), the notice under Rule 20.6(a) and the request under Rule 20.5(e) or 20.5 *bis*(e) to the record copy.

310 *ter* Procedure in the Case of Later Submitted Sheets Furnished after the Expiration of the Applicable Time Limit Referred to in Rule 20.7

Where later submitted sheets referred to in Sections 309(a) or 310(a) are received after the expiration of the applicable time limit referred to in Rule 20.7, the receiving Office shall:

(i) notify the applicant of the fact and of the date of receipt of the later submitted sheets, and of the fact that they will not be considered for the PCT procedure;

(ii) indelibly mark, in the middle of the bottom margin of each sheet containing the missing or correct element or part concerned, the words "NOT TO BE CONSIDERED (RULE 20.7)", or their equivalent in the language of publication of the international application;

(iii) keep in its files a copy of the later submitted sheets marked under item (ii) and, where applicable, of the notice under Rule 20.6(a);

(iv) where transmittals under Article 12(1) have already been made, notify the International Bureau accordingly, and transmit the later submitted sheets marked under item (ii) and, where applicable, the notice under Rule 20.6(a) to the said Bureau;

(v) where transmittals under Article 12(1) have not yet been made, notify the International Bureau

accordingly, and attach the later submitted sheets marked under item (ii) and, where applicable, the notice under Rule 20.6(a) to the record copy.

311 Renumbering in the Case of Deletion, Substitution or Addition of Sheets of the International Application and of the Translation Thereof

(a) The receiving Office shall, subject to Section 207, sequentially renumber the sheets of the international application when necessitated by the addition of any new sheet, the deletion of entire sheets, a change in the order of the sheets or any other reason.

(b) The sheets of the international application shall be provisionally renumbered in the following manner:

(i) subject to paragraph (iii), when a sheet is deleted, the receiving Office shall either include a blank sheet with the same number and with the word “DELETED,” or its equivalent in the language of publication of the international application, below the number, or insert, in brackets, below the number of the following sheet, the number of the deleted sheet with the word “DELETED” or its equivalent in the language of publication of the international application;

(ii) when one or more sheets are added, each sheet shall be identified by the number of the preceding sheet followed by a slant and then by another Arabic numeral such that the additional sheets are numbered consecutively, starting always with number one for the first sheet added after an unchanged sheet (e.g., 10/1, 15/1, 15/2, 15/3, etc.); when later additions of sheets to an existing series of added sheets are necessary, an extra numeral shall be used for identifying the further additions (e.g., 15/1, 15/1/1, 15/1/2, 15/2, etc.).

(iii) where a correct element or part furnished under Rule 20.5 *bis* to correct an erroneously filed element or part is added to the international application, the sheets of the correct element or part shall be numbered without taking into account the sheets of the erroneously filed element or part, and no action referred to in paragraph (i) need be taken with respect to the sheets of the erroneously filed element or part, either when they are removed from the international application under Section 309(c)(iv) or 310(b)(iv), or when they are moved to the end of the corresponding element of the international application under Section 309(b)(iv).

(c) In the cases mentioned in paragraph (b), it is recommended that the receiving Office should write, below the number of the last sheet, the total number of the sheets of the international application followed by the words "TOTAL OF SHEETS" or their equivalent in the language of publication of the international application. It is further recommended that, at the bottom of any last sheet added, the words "LAST ADDED SHEET" or their equivalent in the language of publication of the international application should be inserted.

(d) Paragraphs (a) to (c) shall apply *mutatis mutandis* to any translation of the international application furnished under Rule 12.3 or 12.4.

312 Notification of Decision Not to Issue Declaration that the International Application Is Considered Withdrawn

Where the receiving Office, after having notified the applicant under Rule 29.4(a) of its intent to issue a declaration under Article 14(4), decides not to issue such a declaration, it shall notify the applicant accordingly.

313 Documents Filed with the International Application; Manner of Marking the Necessary Annotations in the Check List

(a) Any power of attorney, any priority document, any fee calculation sheet and any separate sheet referred to in Section 209(a) containing indications as to deposited biological material, filed with the international application shall accompany the record copy; any other document referred to in Rule 3.3(a)(ii) shall be sent only at the specific request of the International Bureau. If any document which is indicated in the check list as accompanying the international application is not, in fact, filed at the latest by the time the record copy leaves the receiving Office, that Office shall so note on the check list and the said indication shall be considered as if it had not been made.

(b) Where, under Rule 3.3(b), the receiving Office itself completes the check list, that Office shall enter, in the margin, the words “COMPLETED BY RO” or their equivalent in the language of

publication of the international application. Where only some of the indications are completed by the receiving Office, the said words and each indication completed by that Office shall be identified by an asterisk.

314 Correction or Addition of a Priority Claim Under Rule 26 *bis*

(a) Where the applicant, in a notice submitted to the receiving Office, corrects or adds a priority claim under Rule 26 *bis* , that Office shall enter the correction or addition in the request, draw a line through, while still leaving legible, any indication deleted as a result of the correction, and enter, in the margin, the letters "RO."

(b) The applicant and, if copies of the international application have already been sent to the International Bureau and the International Searching Authority, that Bureau and that Authority shall be promptly notified by the receiving Office of any correction or addition of a priority claim under Rule 26 *bis* and of the date on which it received such correction or addition.

315 Processing of Documents by the Receiving Office under Rule 26 *bis*.3(h- *bis*)

(a) Where the receiving Office receives a request under Rule 26 *bis*.3(h- *bis*) and decides not to transmit a document or part thereof to the International Bureau, it shall

indelibly mark on the request under Rule 26 *bis*.3(h- *bis*) the date on which that request was received;

(ii) indelibly mark, in the upper right-hand corner of each replacement sheet received, the international application number and the date on which that sheet was received;

(iii) indelibly mark, in the middle of the bottom margin of each replacement sheet received, the words "SUBSTITUTE SHEET (RULE 26 *bis*.3(h- *bis*))" or their equivalent in the language of publication of the international application;

(iv) keep in its files a copy of the request under Rule 26 *bis*.3(h- *bis*), and, where applicable, the replaced sheet, and a copy of the replacement sheet;

(v) promptly transmit any replacement sheet to the International Bureau.

(b) Where the receiving Office receives a request under Rule 26 *bis*.3(h- *bis*) and finds that information in a part of a document meets the requirements in this Rule, but the receiving Office has not received a replacement sheet from the applicant in which that part has been removed, it may decide not to transmit the entire document or part thereof to the International Bureau and proceed as indicated under paragraph (a)(i) and (iv) as applicable, or invite the applicant to submit such a replacement sheet. Where the applicant submits a replacement sheet within the time limit set by the receiving Office, the receiving Office proceeds as indicated under paragraph (a). Where the applicant does not submit a replacement sheet within the time limit set by the receiving Office, the receiving Office may either transmit the document containing that part and the request under Rule 26 *bis*.3(h- *bis*) to the International Bureau, or decide not to transmit the entire document or part thereof to the International Bureau under Rule 26 *bis*.3(h- *bis*).

(c) Where the receiving Office finds on its own decision that information in a part of a document meets the requirements in Rule 26 *bis*.3(h- *bis*), it may either invite the applicant to submit a replacement sheet in which that part has been removed and proceed as indicated under paragraph (b), or decide not to transmit the entire document or part thereof to the International Bureau.

(d) Where the receiving Office receives a request under Rule 26 *bis*.3(h- *bis*), but nevertheless decides to transmit that document or part thereof to the International Bureau, it shall proceed as indicated under paragraph (a)(i), (ii) and (iv), and promptly transmit the request under Rule 26 *bis*.3(h- *bis*) and any proposed replacement sheet to the International Bureau.

316 Procedure in the Case Where the International Application Lacks the Prescribed Signature

Where, under Article 14(1)(a)(i), the receiving Office finds that the international application is defective in that it lacks the prescribed signature, that Office shall send to the applicant, together with the invitation to correct under Article 14(1)(b), a copy

of the relevant sheet of the request part of the international application. The applicant shall, within the prescribed time limit, return said copy after affixing thereto the prescribed signature.

317 Transmittal of a Notice of Correction or Addition of a Declaration under Rule 26 *ter*.1

If a notice under Rule 26 *ter*.1 is submitted by the applicant to the receiving Office, that Office shall mark the date of receipt on the notice and transmit it promptly to the International Bureau. The notice shall be considered to have been received by the International Bureau on the date marked.

317 *bis* Transmittal of a Notice of Correction or Addition of an indication under Rule 26 *quater*.1

If a notice under Rule 26 *quater*.1 is submitted by the applicant to the receiving Office, that Office shall mark the date of receipt on the notice and transmit it promptly to the International Bureau. The notice shall be considered to have been received by the International Bureau on the date marked.

318 Cancellation of Designations of Non-Contracting States

The receiving Office shall cancel *ex officio* the designation of any State which is not a Contracting State, shall enclose that designation within square brackets, shall draw a line between the square brackets while still leaving the designation legible, shall enter, in the margin, the words "CANCELLED EX OFFICIO BY RO" or their equivalent in the language of publication of the international application, and shall promptly notify the applicant accordingly. If the record copy has already been sent to the International Bureau, the receiving Office shall also notify that Bureau.

319 Procedure under Rule 4.9(b)

(a) Where the receiving Office finds that the request contains an indication under Rule 4.9(b) that the designation of a State is not made but the request does not contain a priority claim to an earlier national application filed in that State, the receiving Office shall promptly notify the applicant accordingly and shall draw the applicant's attention to Rule 26 *bis*.

(b) If the receiving Office does not, before the expiration of the time limit under Rule 26 *bis*.1(a), receive a notice correcting or adding a priority claim to an earlier national application filed in the State, the designation of which is not made, it shall cancel *ex officio* the indication under Rule 4.9(b), shall enclose that indication in square brackets, draw a line between the square brackets while still leaving the indication legible, enter, in the margin, the words "CANCELLED *EX OFFICIO* BY RO" or their equivalent in the language of publication of the international application, and promptly notify the applicant accordingly. If the record copy has already been sent to the International Bureau, the receiving Office shall also notify that Bureau.

320 Invitation to Pay Fees under Rule 16 *bis*.1(a)

When issuing an invitation under Rule 16 *bis*.1(a), the receiving Office shall, if it received moneys from the applicant before the due date, inform the applicant of the fees to which those moneys have been applied.

321 Application of Moneys Received by the Receiving Office in Certain Cases

(a) The receiving Office shall, to the extent that it has received instructions from the applicant as to the fees to which it shall apply moneys received by it from the applicant, apply those moneys accordingly.

(b) Where the receiving Office receives moneys from the applicant which, together with any other moneys so received, are not sufficient to cover in full the transmittal fee (if any), the international filing fee and the search fee (if any), the receiving Office shall, to the extent that it has not received instructions from the applicant as to the fees to which it shall apply the moneys which are available for the purpose, apply those moneys in payment, successively, of the fees set out below to the extent that they are due and unpaid and in the order in which they appear below:

(i) the transmittal fee;

(ii) the international filing fee;

(iii) the search fee.

322 Invitation to Submit a Request for Refund of the Search Fee

The receiving Office may, before making a refund of the search fee under Rule 16.2, first invite the applicant to submit a request for the refund.

323 Transmittal of Priority Documents to International Bureau

(a) Any priority document which is submitted to the receiving Office under Rule 17.1(a) shall be transmitted by that Office to the International Bureau together with the record copy or, if received after the record copy has been sent to the International Bureau, promptly after having been received by that Office.

(b) Where the priority document is issued by the receiving Office and the applicant has, not later than 16 months after the priority date, requested the receiving Office under Rule 17.1(b) to prepare and transmit it to the International Bureau, the receiving Office shall, promptly after receipt of such request ("request for priority document") and, where applicable, the payment of the fee referred to in that Rule, transmit the priority document to the International Bureau. Where such request for priority document has been made but the required fee has not been paid, the receiving Office shall promptly notify the applicant that the request for priority document will be considered not to have been made unless the fee is paid not later than 16 months after the priority date or, in the case referred to in Article 23(2), not later than at the time the processing or examination of the international application is requested.

(c) When transmitting a priority document, the receiving Office shall notify the International Bureau of the date on which it received the priority document or the request for priority document.

(d) Where a request for priority document has, under paragraph (b), been considered not to have been made, the receiving Office shall promptly notify the International Bureau. Where the receiving Office fails to notify the International Bureau accordingly within 17 months from the priority date, the receiving Office shall prepare and transmit the priority document to the International Bureau even though the required fee has not been paid by the applicant.

(e) Where a request for priority document has been received by the receiving Office later than 16 months after the priority date, or where such request has, under paragraph (b), been considered not to have been made, the receiving Office shall promptly notify the applicant accordingly, directing attention to the requirements of Rule 17.1(a).

324 Copy of Notification of the International Application Number and the International Filing Date under Rule 20.2(c)

The copy, sent to the International Bureau, of the notification of the international application number and the international filing date under Rule 20.2(c) shall also include, if the priority of an earlier application is claimed in the international application, the date of filing – as indicated in the international application – of that earlier application. If the priority of several earlier applications is claimed, the earliest filing date shall be indicated.

325 Corrections of Defects under Rule 26.4 and Rectifications of Obvious Mistakes under Rule 91

(a) Where the receiving Office receives a correction of defects under Rule 26.4 or authorizes a rectification of an obvious mistake under Rule 91, it shall:

(i) indelibly mark, in the upper right-hand corner of each replacement sheet, the international application number and the date on which that sheet was received;

(ii) indelibly mark, in the middle of the bottom margin of each replacement sheet, the words "SUBSTITUTE SHEET (RULE 26)" (where the replacement sheet contains a correction of defects under Rule 26) or "RECTIFIED SHEET (RULE 91)" (where the replacement sheet contains the rectification of an obvious mistake under Rule 91) or their equivalent in the language of publication of the international application;

(iii) indelibly mark on the letter containing the correction or rectification, or accompanying any

replacement sheet, the date on which that letter was received;

(iv) keep in its files a copy of the letter containing the correction or rectification or, when the correction or rectification is contained in a replacement sheet, the replaced sheet, a copy of the letter accompanying the replacement sheet, and a copy of the replacement sheet;

(v) subject to item (vi), promptly transmit any letter and any replacement sheet to the International Bureau, and a copy thereof to the International Searching Authority;

(vi) where transmittals under Article 12(1) have not yet been made, transmit any letter and any replacement sheet to the International Bureau together with the record copy and, except where the international application is considered withdrawn and Rule 29.1(iii) applies, a copy of the said letter or replacement sheet to the International Searching Authority together with the search copy. The record copy and the search copy shall contain any replaced sheet.

(b) Where the receiving Office refuses to authorize the rectification of an obvious mistake under Rule 91, it shall proceed as indicated under paragraph (a)(i), (iii) and (iv) and promptly transmit any letter and any proposed replacement sheet to the International Bureau. If the record copy has not yet been sent to the International Bureau, any letter and any proposed replacement sheet shall be transmitted together with the record copy.

326 Withdrawal by Applicant under Rule 90 *bis*.1, 90 *bis*.2 or 90 *bis*.3

(a) The receiving Office shall promptly transmit to the International Bureau any notice from the applicant effecting withdrawal of the international application under Rule 90 *bis*.1, of a designation under Rule 90 *bis*.2 or of a priority claim under Rule 90 *bis*.3 which has been filed with it together with an indication of the date of receipt of the notice. If the record copy has not yet been sent to the International Bureau, the receiving Office shall transmit the said notice together with the record copy.

(b) If the search copy has already been sent to the International Searching Authority and the international application is withdrawn under Rule 90 *bis*.1 or a priority claim is withdrawn under Rule 90 *bis*.3, the receiving Office shall promptly transmit a copy of the notice effecting withdrawal to the International Searching Authority.

(c) If the search copy has not yet been sent to the International Searching Authority and the international application is withdrawn under Rule 90 *bis*.1, the receiving Office shall not send the search copy to the International Searching Authority and shall, subject to Section 322, refund the search fee to the applicant unless it has already been transferred to the International Searching Authority. If the search fee has already been transferred to the International Searching Authority, the receiving Office shall send a copy of the request and of the notice effecting withdrawal to that Authority.

(d) If the search copy has not yet been sent to the International Searching Authority and a priority claim is withdrawn under Rule 90 *bis*.3, the receiving Office shall transmit a copy of the notice effecting withdrawal to the International Searching Authority together with the search copy.

327 *Ex Officio* Correction of Request by the Receiving Office

(a) Subject to paragraph (d), where the record copy has not yet been sent to the International Bureau and the request requires correction because it contains an inconsistency or a minor defect such as non-compliance with the requirement for indications under Section 115, the receiving Office may correct the request *ex officio*. If the receiving Office does so, it shall notify the applicant accordingly.

(b) When making a correction under paragraph (a), the receiving Office shall enter, in the margin, the letters “RO.” Where any matter is to be deleted, the receiving Office shall enclose such matter within square brackets and shall draw a line between the square brackets while still leaving the deleted matter legible. Where any matter is to be replaced, both the first and second sentences of this paragraph shall apply.

(c) The receiving Office shall check the number of characters of the file reference, if any, and shall delete any characters beyond the number permitted by Section 109.

(d) The receiving Office shall not make any *ex officio* correction to declarations referred to in Rule 4.17 which are contained in the request.

328 Notifications Concerning Representation

(a) Where a power of attorney or a document containing the revocation or renunciation of an appointment is submitted to the receiving Office and the record and search copies have already been transmitted, the receiving Office shall immediately notify the International Bureau and the International Searching Authority by sending them a copy of the power of attorney or document and request the International Bureau to record a change in the indications concerning the agent or common representative under Rule 92 *bis*.1(a)(ii).

(b) If the record copy and/or search copy have not yet been transmitted by the receiving Office, a copy of the power of attorney or document containing the revocation or renunciation of an appointment shall be transmitted by the receiving Office with the record copy and/or search copy.

329 Correction of Indications Concerning the Applicant's Residence or Nationality

Where, in response to an invitation to correct a defect under Article 11(1)(i), evidence is submitted indicating to the satisfaction of the receiving Office that, in fact, the applicant had, on the date on which the international application was actually received, the right to file an international application with that receiving Office, the invitation shall be considered to be an invitation to correct a defect under Article 14(1)(a)(ii) and Rule 4.5 in the prescribed indications concerning the applicant's residence and/or nationality, and the applicant may correct those indications accordingly. If such correction is made, no defect shall be considered to exist under Article 11(1)(i).

330 Transmittal of Record Copy Prevented or Delayed by National Security Prescriptions

(a) Where prescriptions concerning national security prevent the transmittal of the record copy by the receiving Office to the International Bureau under Rule 22.1(a), the receiving Office shall notify the applicant and the International Bureau accordingly.

(b) The notifications under paragraph (a) shall be sent before the expiration of 13 months from the priority date. Where the receiving Office believes that national security clearance is imminent, it may postpone the sending of the notifications, but shall send them before the expiration of 17 months from the priority date if no clearance has been given by that time.

331 Receipt of Confirmation Copy

Where, subject to Rule 92.4, the receiving Office receives an international application by facsimile machine transmission and subsequently receives the original of that international application, it shall mark such original with the words "CONFIRMATION COPY" or their equivalent in the language of publication of the international application on the bottom of the first page of the request and on the first page of the description. The marking under Section 325 is not required in such a case. The international application as received by facsimile machine transmission shall constitute the record copy. The confirmation copy shall be transmitted to the International Bureau in addition to the record copy.

332 Notification of Languages Accepted by the Receiving Office under Rules 12.1(a), (c) and (d) and 12.4(a)

(a) Each receiving Office shall notify the International Bureau of the language or languages which, having regard to Rule 12.1(b), it is prepared to accept under Rule 12.1(a) for the filing of international applications.

(a-bis) Each receiving Office shall notify the International Bureau of the language or languages of any language-dependent free text which, having regard to Rules 12.1(a) and (b), it is prepared to accept under Rule 12.1(d) for the filing of the sequence listing part of the description.

(b) Each receiving Office shall notify the International Bureau of any change to the information notified under paragraphs (a), (a- *bis*), (d) and (e). If the change means that

(i) the receiving Office is no longer prepared to accept the filing of international applications in a

language that it had previously notified the International Bureau that it was prepared to accept; or

(ii) the receiving Office is no longer prepared to accept the translation of international applications into a language of publication that it had previously notified the International Bureau that it was prepared to accept; or

(iii) the receiving Office is no longer prepared to accept the filing of requests in a language that it had previously notified the International Bureau that it was prepared to accept; or

(iv) the receiving Office is no longer prepared to accept the filing of the sequence listing part of the description containing language-dependent free text in a language that it had previously notified the International Bureau that it was prepared to accept,

the effective date of such change shall be two months after the date of publication of the notification of the change in the Gazette pursuant to Section 405 or such later date as may be determined by the receiving Office.

(c) Nothing in paragraph (a), (a- *bis*), (b), (d) or (e) prevents any receiving Office from accepting, in a particular case,

(i) the filing of an international application in a language that it has not notified the International Bureau that it is prepared to accept; or

(ii) the translation of an international application into a language of publication that it has not notified the International Bureau that it is prepared to accept; or

(iii) the filing of a request in a language that it has not notified the International Bureau that it is prepared to accept; or

(iv) the filing of the sequence listing part of the description containing language-dependent free text in a language that it has not notified the International Bureau that it is prepared to accept.

(d) Each receiving Office concerned shall notify the International Bureau of the language or languages which it is prepared to accept under Rule 12.4(a) for the translation of international applications into a language of publication.

(e) Each receiving Office shall notify the International Bureau of the language or languages which it is prepared to accept under Rule 12.1(c) for the filing of requests.

333 Transmittal of International Application to the International Bureau as Receiving Office

(a) Where a national Office intends to proceed under Rule 19.4(b) having regard to Rule 19.4(a)(i), (ii) or (ii- *bis*), it shall, if it requires payment of the fee referred to in Rule 19.4(b) and that fee has not already been paid, promptly invite the applicant to pay that fee within a time limit of 15 days from the date of the invitation.

(b) Where a national Office intends to proceed under Rule 19.4(b) having regard to Rule 19.4(a)(iii), it shall promptly request the International Bureau as receiving Office to agree to the transmittal of the international application. The International Bureau as receiving Office shall promptly respond to that request. If the International Bureau as receiving Office agrees to the transmittal, the national Office shall promptly invite the applicant:

(i) if the transmittal has not already been authorized by the applicant, to submit to that Office, within a time limit of 15 days from the date of the invitation, an authorization of the transmittal, and,

(ii) if the Office requires payment of the fee referred to in Rule 19.4(b) and that fee has not already been paid, to pay that fee within the time limit referred to in item (i).

(c) The national Office:

(i) need not proceed under Rule 19.4(b) having regard to Rule 19.4(a)(i) to (iii) if the Office requires payment of the fee referred to in Rule 19.4(b) and the applicant does not pay that fee;

(ii) shall not proceed under Rule 19.4(b) having regard to Rule 19.4(a)(iii) if the International Bureau as receiving Office does not agree to, or if the applicant does not authorize, the transmittal of the international application under Rule 19.4(a)(iii).

334 Notification to Applicant of Submission of Demand after the Expiration of 19 Months from the Priority Date

Where the demand is submitted after the expiration of 19 months from the priority date to a receiving Office and the time limit under Article 22(1), as in force from April 1, 2002, does not apply in respect of all designated Offices, the receiving Office shall:

(i) promptly notify the applicant accordingly, directing attention to the fact that the time limit under Article 39(1)(a) does not apply, and that Article 22(1), as in force until March 31, 2002, continues to apply in respect of any such designated Office, and

(ii) proceed under Rule 59.3.

335 Procedures Relating to Sequence Listings

(a) Sections 305 *bis*, 308(b), 308 *bis* to 310 *ter* and 325 shall apply mutatis mutandis to any sequence listing furnished as a separate electronic file in the relevant procedures, subject to paragraphs (b) to (d) and any special provisions set out in Annex C.

(b) Where the receiving Office receives a sequence listing on a physical medium, that Office shall physically label the medium with the words "SEQUENCE LISTING" together with other markings equivalent to those required for sheets filed or submitted according to Sections 308(b), 308 *bis* to 310 *ter* or 325, as the case may be, in accordance with the procedures in Annex C.

(c) The receiving Office shall keep the contents of any file received from the applicant representing a sequence listing unchanged. Any required annotation concerning the international application number or purpose for which the sequence listing was furnished shall be recorded in the filename or other metadata associated with the file in accordance with the procedures in Annex C.

(d) Where the receiving Office receives a sequence listing under Rule 13 *ter* for the purposes of international search and any accompanying statement as set out in Annex C, it shall forward these to the International Searching Authority, together with the search copy or as soon as possible thereafter.

336 Waivers under Rules 90.4(d) and 90.5(c)

(a) Where, in accordance with Rule 90.4(d), a receiving Office waives the requirement under Rule 90.4(b) that a separate power of attorney be submitted to it, the receiving Office shall notify the International Bureau accordingly.

(b) Where, in accordance with Rule 90.5(c), a receiving Office waives the requirement under Rule 90.5(a)(ii) that a copy of a general power of attorney be attached to the request or any separate notice, the receiving Office shall notify the International Bureau accordingly.

(c) A receiving Office may require a separate power of attorney, or a copy of a general power of attorney, in particular instances even if the receiving Office has waived the requirement in general.

(d) A receiving Office which has notified the International Bureau under paragraph (a) or (b) shall notify the International Bureau of any change to the information notified under those paragraphs.

337 [Deleted]

PART 4

INSTRUCTIONS RELATING TO THE INTERNATIONAL BUREAU

401 Marking of the Sheets of the Record Copy

(a) The International Bureau shall, upon receipt of the record copy, mark the date of receipt of the record copy in the appropriate space on the request.

(b) If the receiving Office has failed to mark any sheet as provided in Sections 311 and 325, the marking which has not been made may be inserted by the International Bureau.

402 Correction or Addition of a Priority Claim under Rule 26 *bis*

(a) Where the applicant, in a notice submitted to the International Bureau, corrects or adds a priority claim under Rule 26 *bis*, that Bureau shall enter the correction or addition in the request, draw a line through, while still leaving legible, any indication deleted as a result of the correction, and enter, in the margin, the letters "IB".

(b) [Deleted]

(c) The applicant, the receiving Office and the International Searching Authority shall be promptly notified by the International Bureau of any correction or addition of a priority claim under Rule 26 *bis* and of the date on which it received such correction or addition.

403 Transmittal of Protest against Payment of Additional Fees and Decision Thereon Where International Application Is Considered to Lack Unity of Invention

Where, under Rule 40.2(c) or 68.3(c), the International Bureau receives a request from the applicant to forward to any designated or elected Office the texts of both the protest against payment of additional fees as provided for in Articles 17(3)(a) and 34(3)(a) where the international application is considered to lack unity of invention and the decision thereon by the International Searching Authority or the International Preliminary Examining Authority, as the case may be, it shall proceed according to such request.

404 International Publication Number of International Application

The International Bureau shall assign to each published international application an international publication number which shall be different from the international application number. The international publication number shall be used on the published international application and in the Gazette entry. It shall consist of the two-letter code "WO" followed by a four-digit indication of the year of publication, a slant, and a serial number consisting of six digits (e.g., "WO 2004/123456").

405 Publication of Notifications of Languages Accepted by the Receiving Office under Rules 12.1(a), (c) and (d) and 12.4(a)

The International Bureau shall promptly publish in the Gazette any notification under Section 332(a), (a- *bis*), (b), (d) or (e).

406 Publication of International Applications

(a) International applications shall be published on a given day of the week.

(b) International applications may be published, for the purposes of Article 21, on paper or wholly or partly in electronic form.

(c) Details concerning the publication of international applications, and the form and particulars of the front page of each published international application, shall be decided by the Director General, after consultation with the Offices or Authorities which have a direct interest in those details.

406 *bis* Suggested English Translation of the Title of the Invention

(a) Where the international application is to be published in a language other than English and a translation of the application into English is not required under Rule 12.3(a), the applicant may furnish a suggested translation of the title of the invention into English to the International Bureau before the expiration of 14 months from the priority date.

(b) The International Bureau shall, to the extent possible, take the suggested translation into account in the preparation of the translation referred to in Rule 48.3(c) if it is received within the time limit specified in paragraph (a).

407 The Gazette

(a) The Gazette referred to in Rule 86.1 shall be published in electronic form on the Internet. It may be made available by any other electronic means as determined by the Director General after consultation with the Offices and Authorities which have a direct interest in the means by which the Gazette is published.

(b) In respect of each published international application, the Gazette shall contain the contents specified in Rule 86.1(i), the contents specified in Rule 86.1(iv), and the data indicated in Annex D.

(c) The information referred to in Rule 86.1(v) shall be that which is indicated in Annex E.

(d) Details concerning the form and further particular content of the Gazette shall be decided by the Director General after consultation with Offices and Authorities which have a direct interest in those details.

408 Priority Application Number

(a) [Deleted]

(b) If the number of the earlier application referred to in Rule 4.10(a)(ii) ("priority application number") is furnished after the expiration of the prescribed time limit, the International Bureau shall inform the applicant and the designated Offices of the date on which the said number was furnished. It shall indicate the said date in the international publication by including on the front page of the published international application next to the priority application number the words "FURNISHED LATE ON... (date)," and the equivalent of such words in the language in which the international application is published if that language is other than English.

(c) If the priority application number has not been furnished at the time of the completion of the technical preparations for international publication, the International Bureau shall indicate that fact by including on the front page of the published international application in the space provided for the priority application number the words "NOT FURNISHED" and the equivalent of such words in the language in which the international application is published if that language is other than English.

409 Priority Claim Considered Not to Have Been Made

Where the International Bureau declares, under Rule 26 *bis*.2(b), that a priority claim is considered not to have been made, that Bureau shall enclose the priority claim concerned within square brackets, draw a line between the square brackets, while still leaving legible the indications concerned, and enter, in the margin, the words "NOT TO BE CONSIDERED FOR PCT PROCEDURE (IB)" or their equivalent in the language of publication of the international application, and shall notify the applicant accordingly. The International Bureau shall also notify the receiving Office and the International Searching Authority.

410 Numbering of Sheets for the Purposes of International Publication; Procedure in Case of Missing or Erroneously Filed Sheets

(a) In the course of preparing the international application for international publication, the International Bureau shall sequentially renumber the sheets to be published only when necessitated by the addition of any new sheet, the deletion of entire sheets or a change in the order of the sheets. Otherwise, the numbering provided under Section 207 shall be maintained.

(b) Where a sheet has not been filed or is not to be taken into consideration for the purposes of international processing under Section 310 *bis* or 310 *ter* , the International Bureau shall include an indication to that effect in the published international application.

(c) Where the receiving Office fails to correct the numbering of the sheets in accordance with Section 311(b)(iii), the International Bureau shall number the sheets accordingly.

411 Receipt of Priority Document

(a) The International Bureau shall, in respect of any priority document received or obtained by it, record the date on which the priority document has been received or obtained by it, and notify the applicant and the designated Offices accordingly. The notification should indicate whether the priority document was or was not submitted, transmitted, or obtained in compliance with Rule 17.1(a), (b) or (b- *bis*), and with respect to the designated Offices, should preferably be made together with the notification under Rule 47.1(a- *bis*).

(b) Where the priority document has been submitted, transmitted, or obtained but not in compliance with Rule 17.1(a), (b) or (b- *bis*), the International Bureau shall, in the notification under paragraph (a) of this Section, direct the attention of the applicant and the designated Offices to the provisions of Rule 17.1(c).

411 *bis* Receipt of Translation of Earlier Application under Rule 20.6(a)(iii)

The International Bureau shall indicate the words "TRANSLATION (RULE 20.6(a)(iii))", or their equivalent in French, on any translation received under Rule 20.6(a)(iii).

412 Notification of Lack of Transmittal of Search Copy

If the International Bureau does not receive from the International Searching Authority a notification under Rule 25.1 within two months from the date of receipt of the record copy, the International Bureau shall remind the receiving Office to transmit the search copy to the International Searching Authority. A copy of the reminder shall be sent to the International Searching Authority.

413 Incorporations by Reference under Rule 20.6, Corrections of Defects under Rule 26.4 and Rectifications of Obvious Mistakes under Rule 91

(a) Where the International Bureau receives from the receiving Office a letter containing a correction of any defects under Rule 26.4, or a replacement sheet and the letter accompanying it, the International Bureau shall transfer the correction to the record copy, together with the indication of the date on which the receiving Office received the letter, or shall insert the replacement sheet in the record copy. Any letter and any replaced sheet shall be kept in the file of the international application.

(b) Paragraph (a) shall apply *mutatis mutandis* to rectifications of obvious mistakes under Rule 91 authorized by the receiving Office, by the International Searching Authority or, where a demand has been made, by the International Preliminary Examining Authority.

(b- *bis*) Where the International Bureau receives from the receiving Office, under Sections 309(c)(v), 310(b)(v), or 310 *bis*(b)(v), corrected sheets of the request or later submitted sheets, the International Bureau shall transfer any correction to the record copy and insert any later submitted sheets in the record copy.

(c) Where the International Bureau is notified by the International Searching Authority under Rule 43.6 *bis*(b) that the rectification of an obvious mistake authorized under Rule 91 has not been taken into account for the purposes of the international search, the International Bureau shall notify the designated Offices and, where a demand has been made, the International Preliminary Examining Authority accordingly.

(d) Where the International Bureau is notified by the International Preliminary Examining Authority under Rule 70.2(e) that the rectification of an obvious mistake authorized under Rule 91 has not been taken into account for the purposes of the international preliminary examination, the International Bureau shall notify the elected Offices accordingly.

413 *bis* Rectifications of Obvious Mistakes under Rule 91

(a) Where the International Bureau authorizes a rectification under Rule 91, it shall:

(i) indelibly mark, in the upper right-hand corner of each replacement sheet, the international application number and the date on which that sheet was received;

(ii) indelibly mark, in the middle of the bottom margin of each replacement sheet, the words "RECTIFIED SHEET (RULE 91)" or their equivalent in the language of publication of the international application;

(iii) indelibly mark on the letter containing the rectification or accompanying any replacement sheet the date on which that letter was received;

(iv) keep in its files a copy of the letter containing the rectification or, when the rectification is contained in a replacement sheet, the replaced sheet, a copy of the letter accompanying the replacement sheet, and a copy of the replacement sheet.

(b) Where the International Bureau refuses to authorize a rectification under Rule 91, it shall proceed as indicated under paragraph (a)(i), (iii) and (iv).

(c) Where the International Bureau authorizes or refuses to authorize the rectification of an obvious mistake under Rule 91, it shall notify the applicant, the International Searching Authority, where a

demand has been made, the International Preliminary Examining Authority, as well as the designated or elected Offices accordingly and, where the International Bureau refuses to authorize a rectification, the notification shall also include the reasons for the refusal.

414 Notification to the International Preliminary Examining Authority Where the International Application Is Considered Withdrawn

If a demand has been submitted and the international application is considered withdrawn under Article 14(1), (3) or (4), the International Bureau shall promptly notify the International Preliminary Examining Authority, unless the international preliminary examination report has already issued.

415 Notification of Withdrawal under Rule 90 *bis*.1, 90 *bis*.2, 90 *bis*.3, 90 *bis*.3 *bis* or 90 *bis*.4

(a) The fact of withdrawal by the applicant of the international application under Rule 90 *bis*.1, of designations under Rule 90 *bis*.2, or of a priority claim under Rule 90 *bis*.3, together with the date on which the notice effecting withdrawal reached the International Bureau, the International Preliminary Examining Authority or the receiving Office, shall be recorded by the International Bureau and promptly notified by it to the receiving Office, the applicant, the designated Offices affected by the withdrawal and, where the withdrawal concerns the international application or a priority claim and where the international search report, or the declaration referred to in Article 17(2)(a), and the written opinion of the International Searching Authority have not yet issued, the International Searching Authority. However, where the withdrawal concerns the international application and where the notice effecting withdrawal was filed with the receiving Office before the sending of the record copy to the International Bureau, that Bureau shall send the notifications referred to in the preceding sentence and in Rule 24.2(a) to the receiving Office and the applicant only.

(b) If, at the time of the withdrawal of the international application under Rule 90 *bis*.1, or of a priority claim under Rule 90 *bis*.3, a demand has already been submitted and the international preliminary examination report has not yet issued, the International Bureau shall, unless the notice effecting withdrawal was submitted to the International Preliminary Examining Authority, promptly notify the fact of withdrawal to that Authority, together with the date on which the notice effecting withdrawal has reached the International Bureau or the receiving Office.

(c) If, at the time of the withdrawal of the international application under Rule 90 *bis*.1, or of a priority claim under Rule 90 *bis*.3, a supplementary search request has already been submitted and the supplementary international search report has not yet been established, the International Bureau shall promptly notify the fact of withdrawal to the Authority specified for supplementary search, together with the date on which the notice effecting withdrawal has reached the International Bureau or the receiving Office.

(d) The fact of withdrawal by the applicant of the supplementary search request under Rule 90 *bis*.3 *bis* , together with the date on which the notice effecting withdrawal was, or was considered to have been, submitted to the International Bureau, shall be promptly notified by that Bureau:

(i) to the applicant, and

(ii) to the Authority specified for supplementary search, unless the notice effecting withdrawal was submitted to that Authority.

(e) The fact of withdrawal by the applicant of the demand or of one or more elections under Rule 90 *bis*.4, together with the date on which the notice effecting withdrawal was, or was considered to have been, submitted to the International Bureau, shall be promptly notified by that Bureau:

(i) to the applicant,

(ii) to each elected Office affected by the withdrawal, except where it has not yet been notified of its election, and

(iii) in the case of withdrawal of the demand or of all elections, to the International Preliminary Examining Authority, unless the notice effecting withdrawal was submitted to that Authority.

416 Correction of Request in Record Copy

(a) Where the request requires correction as a consequence of the withdrawal of a designation or of a change made under Rule 92 *bis* , the International Bureau shall make the necessary correction in the record copy and shall notify the applicant and the receiving Office accordingly.

(b) When making a correction under paragraph (a), the International Bureau shall enter, in the margin, the letters "IB." Where the correction involves the deletion or replacement of some matter, the International Bureau shall enclose such matter within square brackets and shall draw a line between the square brackets while still leaving the deleted or replaced matter legible.

417 Processing of Amendments under Article 19

(a) The International Bureau shall record the date on which, under Rule 46.1, any amendment made under Article 19 was received, shall notify the applicant of that date and indicate it in any publication or copy issued by it.

(b) The International Bureau shall mark, in the upper right-hand corner of each replacement sheet submitted under Rule 46.5(a), the international application number, the date on which that sheet was received under Rule 46.1 and, in the middle of the bottom margin, the words "AMENDED SHEET (ARTICLE 19)." It shall keep in its files any replaced sheet and the letter accompanying the replacement sheet or sheets.

(c) The International Bureau shall insert any replacement sheet or sheets in the record copy.

(d) If, at the time when the demand is received by the International Bureau, the international search report and the written opinion of the International Searching Authority have been established and no amendments under Article 19 have been made, the International Bureau shall inform the International Preliminary Examining Authority accordingly, unless the Authority has informed the International Bureau that it wishes not to be so notified.

418 Notifications to Elected Offices Where the Demand Is Considered Not to Have Been Submitted or Made

Where, after any elected Office has been notified of its election under Article 31(7), the demand is considered not to have been submitted or made, the International Bureau shall notify the said Office accordingly.

419 Processing of a Declaration under Rule 26 *ter*

(a) Where any declaration referred to in Rule 4.17, or any correction thereof under Rule 26 *ter*.1, is submitted to the International Bureau within the time limit under Rule 26 *ter*.1, the International Bureau shall indicate the date on which it received the declaration or correction and insert the additional sheet or replacement sheet in the record copy.

(b) The International Bureau shall promptly notify the applicant, the receiving Office and the International Searching Authority of any declaration corrected or added under Rule 26 *ter*.1.

(c) The International Bureau shall not make any *ex officio* correction to declarations referred to in Rule 4.17 which are contained in the request.

(d) Where any declaration referred to in Rule 4.17, or any correction thereof under Rule 26 *ter* .1, is submitted to the International Bureau after the expiration of the time limit under Rule 26 *ter*.1, the International Bureau shall notify the applicant accordingly and inform the applicant that such a declaration or correction should be submitted directly to the designated Office or Offices concerned. Any declaration referred to in Rule 4.17(iv), signed as prescribed in Section 214, which is submitted to the International Bureau after the expiration of the time limit under Rule 26 *ter*.1 shall be returned to the applicant.

419 *bis* Processing of Corrections or Additions under Rule 26 *quater*

(a) Where any indication referred to in Rule 4.11, or any correction thereof under Rule 26 *quater*.1, is submitted to the International Bureau within the time limit under Rule 26 *quater*.1, the International Bureau shall enter the correction or

addition in the request, draw a line through, while still leaving legible, any indication deleted as a result of the correction, and enter, in the margin, the letters "IB".

(b) The International Bureau shall promptly notify the applicant of any indication corrected or added under Rule 26 *quater*.1.

(c) Where any indication referred to in Rule 4.11, or any correction thereof under Rule 26 *quater*.1, is submitted to the International Bureau after the expiration of the time limit under Rule 26 *quater*.1, the International Bureau shall notify the applicant accordingly and inform the applicant that such an indication or correction should be submitted directly to the designated Office or Offices concerned.

420 Copy of International Application, International Search Report and Supplementary International Search Report for the International Preliminary Examining Authority

(a) Where the International Preliminary Examining Authority is not part of the same national Office or intergovernmental organization as the International Searching Authority, the International Bureau shall, promptly upon receipt of the international search report or, if the demand was received after the international search report, promptly upon receipt of the demand, send a copy of the international application, the international search report and, where applicable, a copy of the English translation of the said report to the International Preliminary Examining Authority. In cases where, instead of the international search report, a declaration under Article 17(2)(a) was issued, references in the preceding sentence to the international search report shall be considered references to the said declaration.

(b) Where an Authority specified for supplementary search has established a supplementary international search report under Rule 45 *bis*.7, and the International Preliminary Examining Authority is not part of the same national Office or intergovernmental organization as the Authority specified for supplementary search, the International Bureau shall, promptly upon receipt of the supplementary international search report, send a copy of the supplementary international search report and, where applicable, a copy of the English translation of the said report to the International Preliminary Examining Authority (Rule 45 *bis*.8(c)). In cases where, instead of the supplementary international search report, a declaration under Article 17(2)(a) was issued, references in the preceding sentence to the supplementary international search report shall be considered references to the said declaration.

420 *bis* Communication of Other Documents to Elected Offices

The International Bureau shall communicate the documents received from the International Preliminary Examining Authority under Rule 71.1(b) to each elected Office, at the same time as it effects the communication provided for in Article 36(3)(a) in accordance with Rule 73.2.

421 Invitation to Furnish a Copy of the Priority Document

Where a request for a copy of the application whose priority is claimed in the international application is made under Rule 43 *bis*.1(b) by the International Searching Authority or, under Rule 66.7(a), by either the International Searching Authority, or the International Preliminary Examining Authority before the International Bureau has received the priority document under Rule 17.1, the International Bureau shall, unless the applicable time limit referred to in Rule 17.1(a) has already expired, inform the applicant of such request and remind him of the requirements of Rule 17.1.

422 Notifications Concerning Changes Recorded under Rule 92 *bis*.1

(a) The International Bureau shall give notifications concerning changes recorded by it under Rule 92 *bis*.1(a), except changes which are the subject of notifications under Section 425:

(i) to the receiving Office;

(ii) as long as the international search report, or the declaration referred to in Article 17(2)(a), and the written opinion of the International Searching Authority have not been established, to the International Searching Authority;

(iii) to the designated Offices unless the change can be duly reflected in the published international application used for the purposes of the communication under Article 20;

(iv) as long as the international preliminary examination report has not been established, to the International Preliminary Examining Authority;

(v) to the elected Offices, unless the change can be duly reflected in the published international application used for the purposes of the communication under Article 20;

(vi) to the applicant; where the change consists of a change in the person of the applicant, the notification shall be sent to the earlier applicant and the new applicant, provided that, where the earlier applicant and the new applicant are represented by the same agent, one notification only shall be sent to the said agent.

(b) Where Rule 92 *bis*.1(b) applies, the International Bureau shall notify the applicant accordingly and, if the change was requested by the receiving Office, that Office.

422 *bis* Objections Concerning Changes in the Person of the Applicant Recorded under Rule 92 *bis*.1(a)

(a) Where a change recorded by the International Bureau under Rule 92 *bis*.1(a):

(i) consists of a change in the person of the applicant, and

(ii) the request under Rule 92 *bis*.1(a) was not signed by or on behalf of both the earlier and the new applicant, and

(iii) the earlier applicant objects to the change in writing,

the change under Rule 92 *bis*.1(a) shall be considered as if it had not been recorded.

(b) Where paragraph (a) applies, the International Bureau shall notify all those who received a notification under Section 422(a) accordingly.

423 Cancellation of Designations and Elections

(a) The International Bureau shall, if the receiving Office has failed to do so, cancel *ex officio* the designation of any State which is not a Contracting State, shall enclose that designation within square brackets, draw a line between the square brackets while still leaving the designation legible, enter, in the margin, the words "CANCELLED *EX OFFICIO* BY IB" or their equivalent in French, and notify the applicant and the receiving Office accordingly.

(b) The International Bureau shall cancel *ex officio*:

(i) the election of any State which is not a designated State;

(ii) the election of any State not bound by Chapter II of the Treaty, if the International Preliminary Examining Authority has failed to do so.

(c) The International Bureau shall enclose the cancelled election within square brackets, draw a line between the square brackets while still leaving the election legible, enter, in the margin, the words "CANCELLED *EX OFFICIO* BY IB" or their equivalent in French, and notify the applicant and, if the election is in the demand, the International Preliminary Examining Authority accordingly.

424 Procedure under Rule 4.9(b)

(a) Where the International Bureau finds, if the Receiving Office has failed to do so, that the request contains an indication under Rule 4.9(b) that the designation of a State is not made but the request does not contain a priority claim to an earlier national application filed in that State, the International Bureau shall promptly notify the applicant accordingly and shall draw the applicant's attention to Rule 26 *bis* .

(b) If the International Bureau does not, before the expiration of the time limit under Rule 26 *bis*.1(a), receive a notice correcting or adding a priority claim to an earlier national application filed in the State, the designation of which is not made, it shall cancel *ex officio* the indication under Rule 4.9(b), shall enclose that indication in square brackets, draw a line between the square brackets

while still leaving the indication legible, enter, in the margin, the words "CANCELLED *EX OFFICIO* BY IB" or their equivalent in French, and notify the applicant and the receiving Office accordingly.

425 Notifications Concerning Representation

Where a power of attorney or a document containing the revocation or renunciation of an appointment is submitted to the International Bureau, the International Bureau shall immediately notify the receiving Office, the International Searching Authority, the Authority specified for supplementary search and the International Preliminary Examining Authority by sending them a copy of the power of attorney or document and shall record a change in the indications concerning the agent or common representative under Rule 92 *bis* . In the case of a renunciation of an appointment, the International Bureau shall also notify the applicant. Where the International Bureau receives a notification concerning representation under Section 328, it shall immediately notify the Authority specified for supplementary search and the International Preliminary Examining Authority accordingly.

426-429 [Deleted]

430 Notification of Designations under Rule 32

Where the effects of any international application are extended to a successor State under Rule 32.1(a), the International Bureau shall promptly, but not before the international publication of the international application, effect the communication under Article 20 to the designated Office concerned, and notify that Office under Rule 47.1(a- *bis*)

431 Publication of Notice of Submission of Demand

(a) For international applications in respect of which a demand is filed before January 1, 2004, the publication in the Gazette of information on the demand and the elected States concerned, as referred to in Rule 61.4, as in force until December 31, 2003, shall consist of a notice indicating that a demand has been submitted prior to the expiration of 19 months from the priority date and, as applicable, indicating that all eligible States have been elected or, where not all eligible States have been elected, indicating those eligible States which have not been elected.

(b) For international applications in respect of which a demand is filed on or after January 1, 2004, the publication in the Gazette of information on the demand and the elected States concerned, as referred to in Rule 61.4, as in force from January 1, 2004, shall consist of a notice indicating that a demand has been submitted prior to the expiration of the applicable time limit under Rule 54 *bis*.1(a) and that all Contracting States which were designated and were bound by Chapter II of the Treaty have been elected. Where the demand is made subsequent to the expiration of 19 months from the priority date and the time limit under Article 22(1), as in force from April 1, 2002, does not apply in respect of all designated Offices, the notice shall also indicate that fact.

432 Notification to Applicant of Submission of Demand after the Expiration of 19 Months from the Priority Date

Where the demand is submitted after the expiration of 19 months from the priority date and subsequently transmitted to the International Bureau under Rule 59.3(a), or is submitted after the expiration of 19 months from the priority date to the International Bureau, and the time limit under Article 22(1), as in force from April 1, 2002, does not apply in respect of all designated Offices, the International Bureau shall, together with the notification sent to the applicant under Rule 59.3(c)(i) or the invitation sent to the applicant under Rule 59.3(c)(ii), as the case may be:

(i) promptly notify the applicant accordingly, directing attention to the fact that the time limit under Article 39(1)(a) does not apply, and that Article 22(1), as in force until March 31, 2002, continues to apply in respect of any such designated Office,

(ii) proceed under Rule 59.3.

433 Waivers under Rule 90.4(d)

(a) Where, in accordance with Rule 90.4(d), the International Bureau waives the requirement under Rule 90.4(b) that a separate power of attorney be submitted to it, the International Bureau shall publish a notice of this fact in the Gazette.

(b) The International Bureau may require a separate power of attorney in particular instances even if the International Bureau has waived the requirement in general.

434 Publication of Information Concerning Waivers under Rules 90.4(d) and 90.5(c)

(a) Any waivers of the requirement under Rule 90.4(b) that a separate power of attorney be submitted, or any changes to the information, notified to the International Bureau under Sections 336(a), 517(a), or 617(a) shall be promptly published in the Gazette. The effective date of any change shall be two months after the date of publication of the change in the Gazette, or such later date as may be determined by the International Bureau.

(b) Any waivers of the requirement under Rule 90.5(a)(ii) that a copy of a general power of attorney be attached to the request, the demand or any separate notice, or any changes to the information, notified to the International Bureau under Sections 336(b), 517(b), or 617(b) shall be promptly published in the Gazette. The effective date of any change shall be two months after the date of publication of the change in the Gazette, or such later date as may be determined by the International Bureau.

435 Communication of Publications and Documents

(a) Subject to paragraph (b), publications under Rule 87.1 and documents under Rule 93 *bis*.1 shall be communicated in electronic form via the International Bureau's electronic data exchange services.

(b) Where so agreed between the International Bureau and the Authority or Office concerned, publications under Rule 87.1 and documents under Rule 93 *bis*.1 may be communicated in other forms and by other means.

(c) Pursuant to Rule 93 *bis*.1(b), where so agreed between the International Bureau and the Office concerned, the communication of documents under Rule 93 *bis*.1 shall be considered to be effected at the time when the International Bureau makes the document available to that Office in electronic form via the International Bureau's electronic data exchange services.

(d) Technical details concerning the communication of publications under Rule 87.1 and of documents under Rule 93 *bis*.1 shall be agreed between the International Bureau and the Authority or Office concerned.

436 Preparation, Identification and Transmittal of the Copies of the Translation of the International Application

Where, for the purposes of a supplementary international search, a translation of the international application is furnished under Rule 45 *bis*.1(c)(i), the International Bureau shall mark the words "TRANSLATION (RULE 45 *bis*.1(c)(i))" in the upper left-hand corner of the first page of the translation and transmit a copy of that translation to the Authority specified for the supplementary search.

PART 5

INSTRUCTIONS RELATING TO THE INTERNATIONAL SEARCHING AUTHORITY

501 [Deleted]

502 Transmittal of Protest against Payment of Additional Fees and Decision Thereon Where International Application Is Considered to Lack Unity of Invention

The International Searching Authority shall transmit to the applicant, preferably at the latest together with the international search report, any decision which it has taken under Rule 40.2(c) on the protest of the applicant against payment of additional fees where the international application is considered to lack unity of invention. At the same time, it shall transmit to the International Bureau a copy of both the protest and the decision thereon, as well as any request by the applicant to forward the texts of both the protest and the decision thereon to the designated Offices.

503 Method of Identifying Documents Cited in the International Search Report and the Written Opinion of the International Searching Authority

Identification of any document cited in the international search report shall be as provided in WIPO Standard ST.14 (Recommendation for the Inclusion of References Cited in Patent Documents). [1] Any document cited in the international search report may be referred to in a shortened form in the written opinion of the International Searching Authority, provided that the reference to the document is unambiguous.

504 Classification of the Subject Matter of the International Application

(a) Where the subject matter of the international application is such that classification thereof requires more than one classification symbol according to the principles to be followed in the application of the International Patent Classification to any given patent document, the international search report shall indicate all such symbols.

(b) Where any national classification system is used, the international search report may indicate all the applicable classification symbols also according to that system.

(c) Where the subject matter of the international application is classified both according to the International Patent Classification and to any national classification system, the international search report shall, wherever possible, indicate the corresponding symbols of both classifications opposite each other.

(d) The version of the International Patent Classification applicable at the time the international application is published under Article 21 shall be used whenever feasible.

505 Indication of Citations of Particular Relevance in the International Search Report

(a) Where any document cited in the international search report is of particular relevance, the special indication required by Rule 43.5(c) shall consist of the letter(s) “X” and/or “Y” placed next to the citation of the said document.

(b) Category “X” is applicable where a document is such that when taken alone, a claimed invention cannot be considered novel or cannot be considered to involve an inventive step.

(c) Category “Y” is applicable where a document is such that a claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

506 [Deleted]

507 Manner of Indicating Certain Special Categories of Documents Cited in the International Search Report

(a) Where any document cited in the international search report refers to an oral disclosure, use, exhibition, or other means referred to in Rule 33.1(b), the separate indication required by that Rule shall consist of the letter "O" placed next to the citation of the document. Category "O" shall be accompanied by one of the categories "X", "Y" or "A".

(b) Where any document cited in the international search report is a published application or patent as defined in Rule 33.1(c), the special mention required by that Rule shall consist of the letter "E" placed next to the citation of the document.

(c) Where any document cited in the international search report is not considered to be of particular relevance requiring the use of categories "X" and/or "Y" as provided in Section 505 but defines the general state of the art, it shall be indicated by the letter "A" placed next to the citation of the document.

(d) Where any document cited in the international search report is a document whose publication date occurred earlier than the international filing date of the international application, but later than the priority date claimed in that application, it shall be indicated by the letter "P" next to the citation of the document. Category "P" shall be accompanied by one of the categories "X", "Y" or "A".

[1] *Editor’s Note:* Published in the *WIPO Handbook on Industrial Property Information and Documentation.*

(e) Where any document cited in the international search report is a document whose publication date occurred after the filing date or the priority date of the international application and is not in conflict with the said application, but is cited for the principle or theory underlying the invention, which may be useful for a better understanding of the invention, or is cited to show that the reasoning or the facts underlying the invention are incorrect, it shall be indicated by the letter "T" next to the citation of the document.

(e-bis) Where any document cited in the international search report is a document cited by the applicant in the international application, it shall be indicated by the letter "D" next to the citation of the document. Category "D" shall be accompanied by one of the categories indicating the relevance of the cited document.

(f) Where in the international search report any document is cited for reasons other than those referred to in paragraphs (a) to (e *-bis*), for example:

— a document which may throw doubt on a priority claim,

— a document cited to establish the publication date of another citation,

such document shall be indicated by the letter "L" next to the citation of the document and the reason for citing the document shall be given.

(g) Where a document is a member of a patent family, it shall, whenever feasible, be mentioned in the international search report in addition to the one cited belonging as well to this family and should be preceded by the sign ampersand (&). Members of a patent family may also be mentioned on a separate sheet, provided that the family to which they belong shall be clearly identified and that any text matter on that sheet, if not in the English language, shall also be furnished to the International Bureau in English translation.

(h) A document whose contents have not been verified by the search examiner but are believed to be substantially identical with those of another document which the search examiner has inspected, may be cited in the international search report in the manner indicated for patent family members in the first sentence of paragraph (g).

508 Manner of Indicating the Claims to Which the Documents Cited in the International Search Report Are Relevant

(a) The claims to which cited documents are relevant shall be indicated by placing in the appropriate column of the international search report:

(i) where the cited document is relevant to one claim, the number of that claim; for example, “2” or “17”;

(ii) where the cited document is relevant to two or more claims numbered in consecutive order, the number of the first and last claims of the series connected by a hyphen; for example, “1-15” or “2-3”;

(iii) where the cited document is relevant to two or more claims that are not numbered in consecutive order, the number of each claim placed in ascending order and separated by a comma or commas; for example, “1, 6” or “1, 7, 10”;

(iv) where the cited document is relevant to more than one series of claims under (ii), above, or to claims of both categories (ii) and (iii), above, the series or individual claim numbers and series placed in ascending order using commas to separate the several series, or to separate the numbers of individual claims and each series of claims; for example, “1-6, 9-10, 12-15” or “1, 3-4, 6, 9-11”.

(b) Where different categories apply to the same document cited in an international search report in respect of different claims or groups of claims, each relevant claim or group of claims shall be listed separately opposite each indicated category of relevance. Each category and each relevant claim or group of claims may be separated by a line.

The following example illustrates the situation where a document is of particular relevance under Section 505(b) as to claims 1 to 3 and under Section 505(c) as to claim 4, and indicates the general state of the art under Section 507(c) as to claims 11 and 12:

Category	*Citation*	*Relevant to claim No.*
	GB, A 392,415 (JONES) 18 May 1933 (18.05.33)	
X	Fig.1	1–3
Y	page 3, lines 5–7	4
A	Fig.5, support 36	11–12

509 International Search and Written Opinion of the International Searching Authority on the Basis of a Translation of the International Application

Where the International Searching Authority has carried out the international search and established the written opinion on the basis of a translation of the international application transmitted to that Authority under Rule 23.1(b), the international search report and the written opinion of the International Searching Authority shall so indicate.

510 Refund of Search Fee in Case of Withdrawal of International Application

(a) Where the international application is withdrawn or is considered withdrawn before the International Searching Authority has started the international search, that Authority shall, subject to paragraphs (b) and (c), refund the search fee to the applicant.

(b) If the refund referred to in paragraph (a) is not compatible with the national law of the national Office acting as International Searching Authority and as long as it continues to be not compatible with that law, the International Searching Authority may abstain from refunding the search fee.

(c) The International Searching Authority may, before making a refund under paragraph (a), first invite the applicant to submit a request for the refund.

511 Rectifications of Obvious Mistakes under Rule 91

(a) Where the International Searching Authority authorizes a rectification under Rule 91, it shall:

(i) indelibly mark, in the upper right-hand corner of each replacement sheet, the international application number and the date on which that sheet was received;

(ii) indelibly mark, in the middle of the bottom margin of each replacement sheet, the words “RECTIFIED SHEET (RULE 91)” or their equivalent in the language of publication of the international application as well as an indication of the International Searching Authority as provided for in Section 107(b);

(iii) indelibly mark on the letter containing the rectification or accompanying any replacement sheet the date on which that letter was received;

(iv) keep in its files a copy of the letter containing the rectification or, when the rectification is contained in a replacement sheet, the replaced sheet, a copy of the letter accompanying the replacement sheet, and a copy of the replacement sheet;

(v) promptly transmit any letter and any replacement sheet to the International Bureau and a copy thereof to the receiving Office.

(b) Where the International Searching Authority refuses to authorize a rectification under Rule 91, it shall proceed as indicated under paragraph (a)(i), (iii), and (iv) and promptly transmit any letter and any proposed replacement sheet to the International Bureau.

512 Notifications Concerning Representation

Where a power of attorney or a document containing the revocation or renunciation of an appointment is submitted to the International Searching Authority, that Authority shall immediately notify the International Bureau by sending it a copy of the power of attorney or document and request the International Bureau to record a change in the indications concerning the agent or common representative under Rule 92 *bis*.1(a)(ii).

513 Sequence Listings

(a) *[Deleted]*

(b) Where the international search report and the written opinion of the International Searching Authority are based on a sequence listing not forming part of the international application but furnished for the purposes of the international search, the international search report and the written opinion of the International Searching Authority shall so indicate.

(c) Where a meaningful international search cannot be carried out and a meaningful written opinion, as to whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious) and to be industrially applicable, cannot be established because a sequence listing is not available to the International Searching Authority in the required form, language and manner, that Authority shall so state in the international search report or declaration referred to in Article 17(2)(a), and in the written opinion.

(d) Where a sequence listing for the purposes of the international search is furnished on a physical medium, that Authority shall physically label that medium with the words "SEQUENCE LISTING NOT FORMING PART OF THE INTERNATIONAL APPLICATION" in accordance with the procedures in Annex C.

(e) The International Searching Authority shall:

(i) keep in its files one copy of any sequence listing which does not form part of the international application but was furnished for the purposes of the international search; and

(ii) transmit one copy thereof to the International Bureau together with the copy of the international search report. If that listing is furnished on a physical medium in less than the number of copies required by the International Searching Authority, that Authority shall be responsible for the preparation of the additional copy and shall have the right to fix a fee for performing that task and to collect such fee from the applicant.

(f) Each International Searching Authority shall notify the International Bureau of the means of transmittal of the sequence listing accepted by it in accordance with Annex F. The International Bureau shall promptly publish details of the notification in the Gazette.

514 Authorized Officer

The officer of the International Searching Authority responsible for the international search report, as referred to in Rule 43.8, and for the written opinion of the International Searching Authority, as referred to in Rule 43 *bis*.1(b), means the person who actually performed the search work and prepared the search report and the written opinion of the International Searching Authority, or another person who was responsible for supervising the search and the establishment of the written opinion.

515 Modification of Abstract in Response to Applicant's Comments

The International Searching Authority shall inform the applicant and the International Bureau of any modifications made by it to an abstract under Rule 38.3.

516 Notification to Applicant of Submission of Demand after the Expiration of 19 Months from the Priority Date

Where the demand is submitted after the expiration of 19 months from the priority date to an International Searching Authority and the time limit under Article 22(1), as in force from April 1, 2002, does not apply in respect of all designated Offices, that Authority shall:

(i) promptly notify the applicant accordingly, directing attention to the fact that the time limit under Article 39(1)(a) does not apply, and that Article 22(1), as in force until March 31, 2002, continues to apply in respect of any such designated Office,

(ii) proceed under Rule 59.3.

517 Waivers under Rules 90.4(d) and 90.5(c)

(a) Where, in accordance with Rule 90.4(d), an International Searching Authority waives the requirement under Rule 90.4(b) that a separate power of attorney be submitted to it, the International Searching Authority shall notify the International Bureau accordingly.

(b) Where, in accordance with Rule 90.5(c), an International Searching Authority waives the requirement under Rule 90.5(a)(ii) that a copy of a general power of attorney be attached to any separate notice, it shall notify the International Bureau accordingly.

(c) An International Searching Authority may require a separate power of attorney, or a copy of a general power of attorney, in particular instances even if the International Searching Authority has waived the requirement in general.

(d) An International Searching Authority which has notified the International Bureau under paragraph (a) or (b) shall notify the International Bureau of any change to the information notified under those paragraphs.

518 Guidelines for Explanations Contained in the Written Opinion of the International Searching Authority

For the purposes of establishing the written opinion of the International Searching Authority, Section 604 shall apply *mutatis mutandis*.

519 Notification of Receipt of Copy of International Application for the Purposes of Supplementary International Search

The Authority specified for supplementary search shall promptly notify the International Bureau and the applicant of the fact and the date of receipt of the copy of the international application for the purposes of the supplementary international search.

520 Withdrawal by Applicant under Rule 90 *bis*.3 *bis*

The Authority specified for supplementary search shall promptly transmit to the International Bureau any notice from the applicant effecting withdrawal of the supplementary search request under Rule 90 *bis*.3 *bis* which has been filed with it. The Authority specified for supplementary search shall mark the notice with the date on which it was received.

PART 6

INSTRUCTIONS RELATING TO THE INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

601 Notification to Applicant of Submission of Demand after the Expiration of 19 Months from the Priority Date

(a) Where the demand is submitted after the expiration of 19 months from the priority date and the time limit under Article 22(1), as in force from April 1, 2002, does not apply in respect of all designated Offices, the International Preliminary Examining Authority shall promptly notify the applicant accordingly, directing attention to the fact that the time limit under Article 39(1)(a) does not apply, and that Article 22(1), as in force until March 31, 2002, continues to apply in respect of any such designated Office.

(b) Where the demand is submitted after the expiration of 19 months from the priority date to an International Preliminary Examining Authority which is not competent for the international preliminary examination of the international application, and the time limit under Article 22(1), as in force from April 1, 2002, does not apply in respect of all designated Offices, that Authority shall:

(i) promptly notify the applicant accordingly, directing attention to the fact that the time limit under Article 39(1)(a) does not apply, and that Article 22(1), as in force until March 31, 2002, continues to apply in respect of any such designated Office,

(ii) proceed under Rule 59.3.

602 Processing of Amendments by the International Preliminary Examining Authority

(a) The International Preliminary Examining Authority shall:

(i) indelibly mark, in the upper right-hand corner of each replacement sheet submitted under Rule 66.8, the international application number and the date on which that sheet was received;

(ii) indelibly mark, in the middle of the bottom margin of each replacement sheet, the words "AMENDED SHEET" or their equivalent in the language of the demand as well as an indication of the International Preliminary Examining Authority as provided for in Section 107(b);

(iii) keep in its files any replaced sheet, any replacement sheet, whether or not superseded, any letter accompanying such sheets and any letter referred to in the last sentence of Rule 66.8(b);

(iv) where any superseded replacement sheet and letter relating to such superseded replacement sheet are to be annexed to the international preliminary examination report under Rule 70.16(b), indelibly mark, in addition to the markings referred to in items (i) and (ii), in the middle of the bottom margin of each superseded replacement sheet and of each letter relating to a superseded replacement sheet, without obscuring the marking made under item (ii), the words "SUPERSEDED REPLACEMENT SHEET (RULE 70.16(b))" or, as applicable, the words "ACCOMPANYING LETTER (RULE 70.16(b))";

(v) annex to the copy of the international preliminary examination report which is transmitted to the International Bureau any replacement sheet and letter as provided for under Rule 70.16;

(vi) annex to the copy of the international preliminary examination report which is transmitted to the applicant a copy of each replacement sheet and letter as provided for under Rule 70.16.

(b) Section 311(b)(ii) relating to the numbering of replacement sheets shall apply when one or more sheets are added under Rule 66.8.

(c) Where the International Preliminary Examining Authority receives from the applicant a copy of a purported amendment under Article 19 submitted after the time limit set forth in Rule 46.1, the International Preliminary Examining Authority may consider such an amendment as an amendment under Article 34 in which case it shall inform the applicant accordingly.

(d) Where the International Preliminary Examining Authority receives a copy of an amendment under Article 19, paragraphs (a) and (b) shall apply *mutatis mutandis*.

602 *bis* Transmittal of Other Documents to the International Bureau under Rule 71.1(b)

(a) The International Preliminary Examining Authority shall transmit a copy of the following documents to the International Bureau under Rule 71.1(b):

(i) any written opinion issued by the International Preliminary Examining Authority;

(ii) any replacement sheet containing amendments under Article 34 and any letter accompanying the amendments, including any such amendments and letters that have been superseded;

(iii) any letter containing arguments that the applicant submitted to the International Preliminary Examining Authority under Rule 66.3;

(iv) any invitation to restrict the claims or pay additional fees issued by the International Preliminary Examining Authority; and

(v) any protest against the invitation to restrict the claims or pay additional fees and the decision thereon, regardless of whether or not the applicant has so requested in accordance with Rule 68.3(c).

The International Preliminary Examining Authority may transmit to the International Bureau a copy of any other document in its file.

(b) The International Preliminary Examining Authority may transmit the documents referred to in paragraph (a) to the International Bureau at any time after they have become available, but generally not later than at the time of transmitting a copy of the international preliminary examination report to that Bureau.

(c) Any International Preliminary Examining Authority may decide to postpone the application of paragraphs (a) and (b) until such time as it is technically prepared to do so.

603 Transmittal of Protest against Payment of Additional Fees and Decision Thereon

Where International Application Is Considered to Lack Unity of Invention

The International Preliminary Examining Authority shall transmit to the applicant, preferably at the latest together with the international preliminary examination report, any decision which it has taken under Rule 68.3(c) on the protest of the applicant against payment of additional fees where the international application is considered to lack unity of invention. At the same time, it shall transmit to the International Bureau a copy of both the protest and the decision thereon, as well as any request by the applicant to forward the texts of both the protest and the decision thereon to the elected Offices.

604 Guidelines for Explanations Contained in the International Preliminary Examination Report

(a) Explanations under Rule 70.8 shall clearly point out to which of the three criteria of novelty, inventive step (non-obviousness) and industrial applicability referred to in Article 35(2), taken separately, any cited document is applicable and shall clearly describe, with reference to the cited documents, the reasons supporting the conclusion that any of the said criteria is or is not satisfied.

(b) Explanations under Article 35(2) shall be concise and preferably in the form of short sentences.

605 File to Be Used for International Preliminary Examination

Where the International Preliminary Examining Authority is part of the same national Office or intergovernmental organization as the International Searching Authority, the same file shall serve the purposes of international search and international preliminary examination.

606 Cancellation of Elections

(a) The International Preliminary Examining Authority shall cancel *ex officio*:

(i) the election of any State which is not a designated State;

(ii) the election of any State not bound by Chapter II of the Treaty.

(b) The International Preliminary Examining Authority shall enclose that election within square brackets, shall draw a line between the square brackets while still leaving the election legible and shall enter, in the margin, the words “CANCELLED EX OFFICIO BY IPEA” or their equivalent in the language of the demand, and shall notify the applicant accordingly.

607 Rectifications of Obvious Mistakes under Rule 91

(a) Where the International Preliminary Examining Authority authorizes a rectification of an obvious mistake under Rule 91, it shall:

(i) indelibly mark, in the upper right-hand corner of each replacement sheet, the international application number and the date on which that sheet was received;

(ii) indelibly mark, in the middle of the bottom margin of each replacement sheet, the words “RECTIFIED SHEET (RULE 91)” or their equivalent in the language of the demand as well as an indication of the International Preliminary Examining Authority as provided for in Section 107(b);

(iii) indelibly mark on the letter containing the rectification or accompanying any replacement sheet the date on which that letter was received;

(iv) keep in its files a copy of the letter containing the rectification or, when the rectification is contained in a replacement sheet, the replaced sheet, a copy of the letter accompanying the replacement sheet and a copy of the replacement sheet;

(v) annex to the copy of the international preliminary examination report which is transmitted to the International Bureau any replacement sheet and any letter as provided for under Rule 70.16;

(vi) annex to the copy of the international preliminary examination report which is transmitted to the applicant a copy of each replacement sheet and any letter as provided for under Rule 70.16.

(b) Where the rectification of an obvious mistake is not taken into account by the International Preliminary Examining Authority pursuant to Rule 66.4 *bis* , and the Authority so indicates in the international preliminary examination report in accordance with Rule 70.2(e), it shall proceed as

indicated under paragraph (a), provided that the words "RECTIFIED SHEET (RULE 91) – NOT CONSIDERED FOR REPORT (RULE 66.4 *bis*)" shall be used when marking in accordance with paragraph (a)(ii).

(c) Where the rectification of an obvious mistake is not taken into account by the International Preliminary Examining Authority pursuant to Rule 66.4 *bis* , and the Authority is not able to so indicate in the international preliminary examination report in accordance with the second sentence of Rule 70.2(e), it shall proceed as indicated under paragraph (a)(i) to (iv) and forward any replacement sheet and any letter containing the rectification or accompanying any replacement sheet to the International Bureau. The International Bureau will promptly notify the elected Offices accordingly.

608 Notifications Concerning Representation

Where a power of attorney or a document containing the revocation or renunciation of an appointment is submitted to the International Preliminary Examining Authority, that Authority shall immediately notify the International Bureau by sending it a copy of the power of attorney or document and request the International Bureau to record a change in the indications concerning the agent or common representative under Rule 92 *bis*.1(a)(ii).

609 Withdrawal by Applicant under Rules 90 *bis*. 1, 90 *bis*. 2 or 90 *bis*. 3

The International Preliminary Examining Authority shall promptly transmit to the International Bureau any notice from the applicant effecting withdrawal of the international application under Rule 90 *bis*.1(b), of a designation under Rule 90 *bis*.2(d), or of a priority claim under Rule 90 *bis*.3(c) which has been filed with it. The International Preliminary Examining Authority shall mark the notice with the date on which it was received.

610 Sequence Listings

(a) Where the written opinion of the International Preliminary Examining Authority or the international preliminary examination report is based on a sequence listing not forming part of the international application but furnished for the purposes of the international preliminary examination, the written opinion and the international preliminary examination report of the International Preliminary Examining Authority shall so indicate.

(b) Where a meaningful written opinion of the International Preliminary Examining Authority cannot be established, or a meaningful international preliminary examination cannot be carried out, as to whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious) and to be industrially applicable, because a sequence listing is not available to the International Preliminary Examining Authority in the required form, language and manner, that Authority shall so state in the written opinion and in the international preliminary examination report.

(c) Where a sequence listing for the purposes of the international preliminary examination is furnished on a physical medium, that Authority shall physically label that medium with the words "SEQUENCE LISTING NOT FORMING PART OF THE INTERNATIONAL APPLICATION" in accordance with the procedures in Annex C.

(d) The International Preliminary Examining Authority shall:

(i) keep in its files one copy of any sequence listing which does not form part of the international application but was furnished for the purposes of the international preliminary examination; and

(ii) transmit one copy thereof to the International Bureau, either immediately or together with the international preliminary examination report. If that listing is furnished on a physical medium in less than the number of copies required by the International Preliminary Examining Authority, that Authority shall be responsible for the preparation of the additional copy and shall have the right to fix a fee for performing that task and to collect such fee from the applicant.

(e) Each International Preliminary Examining Authority shall notify the International Bureau of the means of transmittal of the sequence listing accepted by it in accordance with Annex F. The International Bureau shall promptly publish details of the notification in the Gazette.

(f) Where the national Office or intergovernmental organization that acted as the

International Searching Authority also acts as the International Preliminary Examining Authority, any sequence listing not forming part of the international application but furnished to that Office or organization for the purposes of the international search shall be considered to have been furnished to it also for the purposes of the international preliminary examination.

611 Method of Identification of Documents in the International Preliminary Examination Report

Any document cited in the international preliminary examination report which was not cited in the international search report shall be cited in the same form as required under Section 503 for international search reports. Any document cited in the international preliminary examination report which was previously cited in the international search report may be cited in a shortened form, provided that the reference to the document is unambiguous.

612 Authorized Officer

The officer of the International Preliminary Examining Authority responsible for the international preliminary examination report, as referred to in Rule 70.14, means the person who actually performed the examination work and prepared the international preliminary examination report or another person who was responsible for supervising the examination.

613 Invitation to Submit a Request for Refund of Fees under Rule 57.4 or 58.3

The International Preliminary Examining Authority may, before making a refund under Rule 57.4 or 58.3, first invite the applicant to submit a request for the refund.

614 Evidence of Right to File Demand

Where a demand is considered as not having been made under Rule 61.1(b) by the International Preliminary Examining Authority because the applicant appeared, on the basis of the indication made in the demand, not to have the right to file a demand with that Authority under Rule 54 but evidence is submitted indicating to the satisfaction of the International Preliminary Examining Authority that in fact, an applicant had, on the date on which the demand was received, the right to file the demand with that Authority, the International Preliminary Examining Authority shall regard the requirements under Article 31(2)(a) as having been fulfilled on the date of actual receipt of the demand.

615 Invitation to Pay Fees before Date on Which They Are Due

If the International Preliminary Examining Authority finds, before the date on which they are due, that the handling fee or the international preliminary examination fee are lacking in whole or in part, it may invite the applicant to pay the missing amounts within the time limit under Rule 57.3 or 58.1(b), as the case may be.

616 International Preliminary Examination on the Basis of a Translation of the International Application

Where the International Preliminary Examining Authority has carried out international preliminary examination on the basis of a translation of the international application furnished to that Authority under Rule 55.2(a) or, in the case referred to in Rule 55.2(b), transmitted, under Rule 23.1(b), to the national Office or intergovernmental organization of which that Authority is part, the international preliminary examination report shall so indicate.

617 Waivers under Rules 90.4(d) and 90.5(c)

(a) Where, in accordance with Rule 90.4(d), an International Preliminary Examining Authority waives the requirement under Rule 90.4(b) that a separate power of attorney be submitted to it, the International Preliminary Examining Authority shall notify the International Bureau accordingly.

(b) Where, in accordance with Rule 90.5(c), an International Preliminary Examining Authority waives the requirement under Rule 90.5(a)(ii) that a copy of a general power of attorney be attached to the demand or any separate notice, it shall notify the International Bureau accordingly.

(c) An International Preliminary Examining Authority may require a separate power of attorney, or a copy of a general power of attorney, in particular instances even if the International Preliminary Examining Authority has waived the requirement in general.

(d) An International Preliminary Examining Authority which has notified the International Bureau under paragraph (a) or (b) shall notify the International Bureau of any change to the information notified under those paragraphs.

PART 7

INSTRUCTIONS RELATING TO THE FILING AND PROCESSING IN ELECTRONIC FORM OF INTERNATIONAL APPLICATIONS

701 Abbreviated Expressions

For the purposes of this Part and Annex F, unless the contrary clearly follows from the wording, the nature of the provision or the context:

(i) "electronic package" means a package of one or more electronic files assembled for the purposes of transmission of one or more documents in electronic form;

(ii) "electronic document format" means the presentation or arrangement of the information in a document in electronic form;

(iii) "means of transmittal," in connection with a document in electronic form, means the manner in which a document is transmitted, for example, by electronic means or physical means;

(iv) "electronic signature" means information in electronic form which is attached to, or logically associated with, a document in electronic form, which may be used to identify the signer and which indicates the signer's approval of the content of the document;

(v) "basic common standard" means the basic common standard for electronic filing of international applications provided for in Annex F;

(vi) "communication" of an international application or other document has the same meaning as in Rule 89 *bis*.3;

(vii) words and expressions whose meanings are explained in Annex F have the same meanings in this Part.

702 Filing, Processing and Communication in Electronic Form of International Applications

(a) The filing, processing and communication of international applications filed in electronic form, and the processing and communication in electronic form of international applications filed on paper, shall be in accordance with this Part and Annex F.

(b) Subject to this Part, an international application that is filed, processed or communicated in electronic form shall not be denied legal effect merely because it is in electronic form.

(c) *[Deleted]*

703 Filing Requirements; Basic Common Standard

(a) An international application may, subject to this Part, be filed in electronic form if the receiving Office has notified the International Bureau in accordance with Rule 89 *bis*.1(d) that it is prepared to receive international applications in such form.

(b) An international application filed in electronic form shall be:

(i) in an electronic document format that has been specified by the receiving Office in accordance with **Annex F** or that complies with the basic common standard;

(ii) filed by a means of transmittal that has been specified by the receiving Office in accordance with **Annex F** or that complies with the basic common standard;

(iii) in the form of an electronic package, appropriate to the means of transmittal, that has been specified by the receiving Office in accordance with

Annex F or that complies with the basic common standard;

(iv) prepared and filed using electronic filing software that has been specified by the receiving Office in accordance with **Annex F** or that complies with the basic common standard; and

(v) free of viruses and other forms of malicious logic in accordance with **Annex F** or that complies with the basic common standard.

(c) An international application filed in electronic form shall, for the purposes of Article 14(1)(a)(i), be signed by the applicant using a type of electronic signature that has been specified by the receiving Office in accordance with **Annex F** or, subject to Section 704(g), that complies with the basic common standard.

(d) A receiving Office which has not notified the International Bureau in accordance with Rule 89 *bis*.1(d) that it is prepared to receive international applications in electronic form may nevertheless decide in a particular case to receive an international application submitted to it in such form, in which case this Part shall apply accordingly.

(e) Any receiving Office may refuse to receive an international application submitted to it in electronic form if the application does not comply with paragraph (b), or may decide to receive the application.

(f) If, on 7 January 2002, the applicable national law and the technical systems of a national Office provide for the filing with it of national applications in electronic form according to requirements which are incompatible with any of items (ii) to (iv) of paragraph (b):

(i) the provisions concerned shall not apply in respect of the Office in its capacity as a receiving Office for as long as the incompatibility continues; and

(ii) the Office may instead provide for the filing with it of international applications in electronic form according to that national law and those technical systems; provided that the Office informs the International Bureau accordingly by the date on which the Office sends the International Bureau a notification under Rule 89 *bis*.1(d) and in any case no later than 7 April 2002. The information received shall be promptly published by the International Bureau in the Gazette.

704 Receipt; International Filing Date; Signature; Physical Requirements

(a) The receiving Office shall promptly notify the applicant of, or otherwise enable the applicant to obtain confirmation of, the receipt of any purported international application filed with it in electronic form. The notification or confirmation shall indicate or contain:

(i) the identity of the Office;

(ii) the date of receipt;

(iii) any reference number or application number assigned to the purported application by the Office; and

(iv) a message digest, generated by the Office, of the purported application as received; and may, at the option of the Office, also indicate or contain other information such as:

(v) the names and sizes of the electronic files received;

(vi) the dates of creation of the electronic files received; and

(vii) a copy of the purported application as received.

(b) Where the receiving Office refuses in accordance with Rule 89 *bis*.1(d) or Section 703(e) to receive a purported international application submitted to it in electronic form, it shall, if practicable having regard to the indications furnished by the applicant, promptly notify the applicant accordingly.

(c) Promptly after receiving a purported international application in electronic form, the receiving Office shall determine whether the purported application complies with the requirements of Article 11(1) and shall proceed accordingly.

(d) Where an international application filed in electronic form is not signed in compliance with Section 703(c), the application shall be considered not to comply with the requirements of Article 14(1)(a)(i) and the receiving Office shall proceed accordingly.

(e) Where an international application filed in electronic form does not comply with Section 703(b) but the receiving Office decides, under Section 703(e), to receive it, that non-compliance shall be considered to be non-compliance with the physical

requirements referred to in Article 14(1)(a)(v) and the receiving Office shall proceed accordingly, having regard to whether compliance is necessary for the purpose of reasonably uniform international publication (Rule 26.3) and satisfactory electronic communications.

(f) An international application filed in electronic form may, in accordance with the provisions of Rule 19.4, be transmitted by the Office with which the application was filed to the International Bureau as receiving Office.

(g) Where an international application filed in electronic form was signed using a type of electronic signature that complies with the basic common standard but that has not been specified by the receiving Office under Section 703(c), the Office may require that any subsequent document or correspondence submitted to it in electronic form be signed using a type of electronic signature that has been so specified. If that requirement is not complied with, Rule 92.1(b) and (c) shall apply *mutatis mutandis*.

705 Home Copy, Record Copy and Search Copy Where International Application Is Filed in Electronic Form

(a) Where an international application is filed in electronic form as a wrapped and signed package in accordance with **Annex F**, the home copy and the record copy in relation to that application for the purposes of Article 12 shall each consist of a copy in electronic form of that package.

(b) Where an international application is filed in electronic form but is not filed as a wrapped and signed package in accordance with **Annex F**, the home copy and the record copy in relation to that application for the purposes of Article 12 shall each consist of a copy in electronic form of the application as filed. If the application as filed was encrypted, the home copy and the record copy shall consist of the decrypted version. If the application as filed was infected by a virus or other form of malicious logic, the home copy and the record copy shall consist of the disinfected version.

(c) Where the international application is filed in electronic form on a physical medium, the home copy and the record copy shall not include the physical medium, but the receiving Office shall, for the purposes of Rule 93.1, retain the application as originally filed, together with the physical medium.

(d) Where the International Searching Authority has notified the International Bureau in accordance with Rule 89 *bis*.1(d) that it is prepared to process international applications in electronic form, paragraphs (a) and (b) apply *mutatis mutandis* to the search copy; otherwise, the search copy shall consist of a copy of the application printed on paper by the receiving Office.

705 *bis* Processing in Electronic Form of International Applications Filed on Paper

(a) Where an international application is filed on paper, it may, subject to this Part, be scanned into electronic form as a complete and accurate copy ("scanned copy") and processed on the basis of the scanned copy.

(b) Pursuant to paragraph (a) and for the purposes of Article 12, the receiving Office, the International Bureau and the International Searching Authority may prepare a scanned copy of the international application and keep it as the home copy, the record copy or the search copy, as the case may be.

(c) Where a scanned copy of the international application is kept as the record copy under paragraph (b), the original of the international application as filed on paper shall be kept, for a period of at least 5 years from the international filing date, by the International Bureau or, where so agreed by the receiving Office and the International Bureau, by the receiving Office on behalf of the International Bureau. The original shall be marked with the words "INTERNATIONAL APPLICATION— ORIGINAL AS FILED ON PAPER (SECTION 705 *bis*)" or their equivalent in the language of publication of the international application on the bottom of the first page of the request and of the first page of the description.

(d) Where, before the expiration of the period referred to in paragraph (c), the International Bureau finds, upon request for correction made by the applicant or otherwise, that a scanned copy of the international application kept as the record copy under paragraph (b) is not in fact a complete and accurate copy of the original kept under paragraph (c), it shall correct the record copy so as to bring it into conformity with the original. If the receiving

Office, the International Searching Authority, the International Preliminary Examining Authority or a designated or elected Office considers that the International Bureau should make a finding under the first sentence of this paragraph, it shall call the relevant facts to the attention of the International Bureau.

(e) Where the International Bureau has corrected the record copy in accordance with paragraph (d), it shall promptly notify the applicant, publish the corrected international application together with a revised front page, and publish a notice of this fact in the Gazette. Section 422(a)(i) to (v) shall apply *mutatis mutandis* with regard to the notification of the receiving Office, the International Searching Authority, the International Preliminary Examining Authority and the designated and elected Offices.

705 *ter* Processing of International Applications Filed in or Scanned into Electronic Form in a Converted Electronic Format

(a) Where an international application is filed in electronic form, or filed on paper and scanned into electronic form under Section 705 *bis*(a), it may, subject to this Part, be converted from the initial or scanned electronic format into another electronic format permitted for this purpose as a complete and accurate copy ("converted copy") and processed on the basis of the converted copy.

(b) The electronic format into which an international application may be converted for the purpose of paragraph (a) shall be XML format as referred to in section 3.1.1.1 of Annex F.

(c) Pursuant to paragraph (a) and subject to the agreement between the relevant Offices, for the purposes of Article 12, the receiving Office, the International Bureau and the International Searching Authority may prepare a converted copy of the international application and keep it as the home copy, the record copy or the search copy, as the case may be.

(d) Notwithstanding Section 705 *bis*(c), where a converted copy of the international application is kept under paragraph (c) as the home copy, the record copy or the search copy, the copy in the initial or scanned electronic format shall be kept in the file of the international application in accordance with Rule 93.

(e) Section 705 *bis*(d) and (e) shall apply mutatis mutandis with respect to corrections of any inconsistencies in the converted copy with the copy in the initial or scanned electronic format kept under paragraph (d).

706 Documents in Pre-Conversion Format

(a) Where, for the purposes of filing the international application in electronic form, the document making up the international application has been prepared by conversion from a different electronic document format ("pre-conversion format"), the applicant may, if the receiving Office so permits and the pre-conversion format is accepted for that purpose by that Office, submit, together with the international application, the document in the pre-conversion format, in which case:

(i) the document in the pre-conversion format shall be identified as such and shall be accompanied by a statement by the applicant that the international application as filed in electronic form is a complete and accurate copy of the document in the pre-conversion format;

(ii) the request shall preferably contain an indication that the document in the pre-conversion format is submitted under Section 706 together with the international application.

(b) Where it is found that the international application as filed in electronic form is not in fact a complete and accurate copy of the document in the pre-conversion format submitted under paragraph (a), the applicant may, within 30 months from the priority date, request the receiving Office to correct the international application so as to bring it into conformity with the document in the pre-conversion format. Rule 26.4 shall apply *mutatis mutandis* to the manner in which corrections under paragraph (b) shall be requested.

(c) Where the receiving Office, the International Searching Authority, the International Preliminary Examining Authority or the International Bureau discover what appears to be a correctable defect under paragraph (b), that Office, Authority or Bureau, as the case may be, may bring such defect to the attention of the applicant, drawing attention to the correction procedure under paragraph (b).

(d) The applicant and, if copies of the international application have already been sent to the International Bureau and the International Searching Authority, that Bureau and that Authority shall be promptly notified by the receiving Office of any correction under paragraph (b). If required, the International Bureau shall notify the International Preliminary Examining Authority accordingly. Where a correction is made after the completion of the technical preparations for international publication, the International Bureau shall promptly publish any international application as so corrected together with a revised front page.

(e) A correction under paragraph (b) shall be taken into account by the International Searching Authority for the purposes of the international search and the establishment of the written opinion, and by the International Preliminary Examining Authority for the purposes of international preliminary examination, if it is notified to that Authority before it has begun to draw up the international search report, the written opinion or the international preliminary examination report, as applicable, in which case the said report or opinion shall so indicate.

(f) Paragraphs (a) to (e) shall apply *mutatis mutandis* to any document making up any element of the international application referred to in Article 3(2).

707 Calculation of International Filing Fee and Fee Reduction

(a) Where an international application is filed in electronic form, the international filing fee shall, subject to paragraph (a- *bis*), be calculated on the basis of the number of sheets that the application would contain if presented as a print-out complying with the physical requirements prescribed in Rule 11. [1]

(a-bis) Where the international application as filed contains an electronic file appearing to be a sequence listing in a file format compliant with WIPO Standard ST.26, the calculation of the international filing fee shall, in the calculation of the number of sheets, not take into account any material contained in such an electronic file.

(b) Item 4(b), (c) and (d) of the Schedule of Fees annexed to the Regulations shall apply to reduce the fees payable in respect of an international application filed in electronic form with a receiving Office which has notified the International Bureau under Section 710(a) that it is prepared to receive international applications in electronic form or which has decided to receive such an application in accordance with Section 703(d).

708 Special Provisions Concerning Legibility, Completeness, Infection by Viruses, Etc.

(a) Where an international application is filed in electronic form, the receiving Office shall promptly check whether the application is legible and whether it appears to have been fully received. Where the Office finds that all or part of the international application is illegible or that part of the application appears not to have been received, the international application shall be treated as not having been received to the extent that it is illegible or, where transmitted by electronic means, that the attempted transmission failed, and the Office shall, if practicable having regard to the indications furnished by the applicant, promptly notify the applicant accordingly.

(b) Where a purported international application is received in electronic form, the receiving Office shall promptly check it for infection by viruses and other forms of malicious logic. Where the Office finds that the purported application is so infected:

(i) the Office is not required to disinfect the purported application and may, under Section 703(e), refuse to receive it;

(ii) if the Office decides under Section 703(e) to receive the purported application, the Office shall use means reasonably available under the circumstances to read it, for example, by disinfecting it or preparing a backup copy under Section 706, and to store it in such a way that its contents may be ascertained if necessary;

[1] *Editor's Note: Noting that Rule 11 leaves some flexibility as to the margins of the sheets (see Rule 11.6) and the size of the characters (see Rule 11.9(d)), the international filing fee should be calculated on the basis of the number of sheets that the application would contain if presented as a print-out complying with the minimum margin and character size requirements. In practice, however, the receiving Office should not print-out the international application but rather rely on the number of pages of the international application as calculated by the electronic filing software and indicated in the request.*

(iii) if the Office finds that it is able to read and store the purported application as mentioned in item (ii), it shall determine whether an international filing date should be accorded;

(iv) if the Office accords an international filing date to the application, it shall, if possible having regard to the indications furnished by the applicant, promptly notify the applicant and, if necessary, invite the applicant to submit a substitute copy of the application free of infection;

(v) if the Office accords an international filing date to the application, it shall prepare the home copy, the record copy and the search copy on the basis of the disinfected application, the backup copy or the substitute copy referred to in items (ii) or (iv), as applicable, provided that the application shall be stored by the Office, as referred to in item (ii), for the purposes of Rule 93.1.

709 Means of Communication with the Applicant

(a) The receiving Office shall, if it provides for such a service, send any notifications, invitations and other correspondence ("documents") to the applicant by electronic means in accordance with **Annex F**, unless the applicant requests to receive them by other means offered by the Office.

(b) Where it appears to the receiving Office that a document sent to the applicant by electronic means was not successfully transmitted, the Office shall promptly resend the document by the same or another means.

(b-bis) Where the receiving Office provides for such a service and the applicant so requests, the receiving Office may, instead of directly transmitting a document to the applicant, make it available for retrieval by the applicant in an electronic system in accordance with the standard set forth in section 5.1ter of Annex F. In this case, the document shall be considered to have been transmitted to the applicant on the day when it was made available for retrieval by the applicant in that electronic system. The receiving Office shall promptly alert the applicant by electronic means whenever a new document has been made available, unless the applicant requests otherwise.

(c) At times when the electronic systems of the receiving Office are not available for the filing or retreival of documents in electronic form or by electronic means, the Office shall, if possible, promptly publish information to that effect by reasonably means.

(d) Where agreed between the receiving Office and the International Bureau, the Office may furnish an electronic copy of a document to the International Bureau for transmission by electronic means to the applicant on its behalf.

710 Notification and Publication of Receiving Offices' Requirements and Practices

(a) A notification by a receiving Office to the International Bureau under Rule 89 *bis*.1(d) and Section 703(a) that it is prepared to receive international applications in electronic form shall indicate, where applicable:

(i) the electronic document formats (including, where applicable, the versions of such electronic document formats), means of transmittal, types of electronic packages, electronic filing software and types of electronic signature specified by it under Section 703(b)(i) to (iv) and (c), and any options specified by it under the basic common standard;

(ii) the conditions, rules and procedures relating to electronic receipt, including hours of operation, choices for processes to verify or acknowledge receipt, choices for electronic communication of invitations and notifications, any methods of online payment, details concerning any help desks, electronic and software requirements and other administrative matters related to the filing in electronic form of international applications and related documents;

(iii) the kinds of documents which may be transmitted to or by the Office in electronic form;

(iv) whether and under what conditions the Office accepts the filing, under Section 706(a) and (f), of documents in pre-conversion formats and the electronic document format(s) (including, where applicable, the versions of such electronic document format(s)) accepted by it under that Section;

(v) procedures for notification of applicants and procedures which applicants may follow as alternatives when the electronic systems of the Office are not available;

(vi) the certification authorities that are accepted by the Office, and the electronic addresses of the certificate policies under which certificates are issued;

(vii) the procedures relating to access to the files of international applications filed or stored in electronic form.

(b) The receiving Office shall notify the International Bureau of any change in the matters previously indicated by it in a notification under paragraph (a) of this Section.

(c) The International Bureau shall promptly publish in the Gazette any notification received by it under paragraph (a) or (b) of this Section.

(d) The effective date of any change notified under paragraph (b) shall be as specified by the receiving Office in the notification, provided that any change which restricts filing options shall not be effective earlier than two months after the date of publication of the notification of the change in the Gazette.

711 Electronic Records Management

(a) Records, copies and files in electronic form in relation to international applications shall be processed and, for the purposes of Rule 93, kept in accordance with the requirements of authentication, integrity, confidentiality and non-repudiation, and having due regard to the principles of electronic records management, set out in **Annex F**.

(b) Upon request by the applicant or other interested party in relation to a particular international application, the receiving Office shall, subject to any restrictions applicable under the Treaty as to access by third parties, [1] certify that any electronic records relating to that application are maintained and stored by it in accordance with paragraph (a).

712 Access to Electronic Records

Access permitted by the Treaty, the Regulations or these Administrative Instructions to documents contained in the file of an international application filed, processed or kept in electronic form may, at the option of the national Office or intergovernmental organization concerned, be provided by electronic means or in electronic form, having due regard to the need to ensure the integrity and where applicable confidentiality of data, the principles of electronic records management set out in **Annex F**, and the need to ensure security of the electronic networks, systems and applications of the Office or organization.

713 Application of Provisions to International Authorities and the International Bureau, and to Notifications, Communications, Correspondence and Other Documents

(a) The provisions of this Part, other than Sections 703(c), 704(c) to (g), 707, 708(b)(iii) to (v), 710(a)(iv) and 714(b), shall, if they are capable of applying but do not expressly apply to the International Searching Authorities, the International Preliminary Examining Authorities and the International Bureau, apply *mutatis mutandis* to those Authorities and that Bureau.

(b) The provisions of this Part, other than Sections 703(c), 704(c) to (f), 705, 707, 708(b)(iii) to (v) and 710(a)(iv), shall, if they are capable of applying but do not expressly apply to notifications, communications, correspondence or other documents relating to international applications that are filed, processed or communicated in electronic form, apply *mutatis mutandis* to such notifications, communications, correspondence or other documents relating to international applications.

714 Furnishing by the International Bureau of Copies of Documents Kept in Electronic Form; Designated Offices' Signature Requirements

(a) Where any International Searching Authority, International Preliminary Examining Authority or designated Office has not notified the International Bureau in accordance with Rule 89 *bis*.1(d) that it is prepared to process international applications in electronic form, the International Bureau shall furnish to that Office or Authority a copy on paper of any document which is kept by the International Bureau in electronic form and which that Office or Authority is entitled to receive. The International

[1] *Editor's Note: Articles 30 and 38 and Rule 94 restrict access.*

Bureau may also, upon request by the Authority or Office concerned, furnish such copy in electronic form.

(b) Any designated Office may require that any document or correspondence submitted to it by the applicant in electronic form be signed by the applicant using a type of electronic signature specified by it in accordance with **Annex F**.

715 Availability of Priority Documents from Digital Libraries

(a) For the purposes of Rules 17.1(b- *bis*), 17.1(d) (where appropriate, as applicable by virtue of Rules 17.1(c) and 82 *ter*.1(b)), 66.7(a) (where appropriate, as applicable by virtue of Rule 43 *bis*.1(b)) and 91.1(e), a priority document shall be considered to be available from a digital library to the International Bureau, a designated Office, the International Searching Authority or the International Preliminary Examining Authority, as the case may be:

(i) if the Office or Authority concerned has notified the International Bureau, or the International Bureau has declared, as the case may be, that it is prepared to obtain priority documents from that digital library; and

(ii) the priority document concerned is held in that digital library and the applicant has, to the extent required by the procedures for accessing the relevant digital library, authorized the Office or Authority concerned or the International Bureau, as the case may be, to access that priority document.

(b) A notification to the International Bureau under paragraph 12 of the Framework Provisions for the Digital Access Service for Priority Documents [1] by

(i) the International Bureau; or

(ii) an Office in its capacity as designated Office, International Searching Authority or International Preliminary Examining Authority,

that it is prepared to obtain priority documents via the Digital Access Service shall be taken as a declaration or notification under paragraph (a)(i) that the International Bureau or Office acting in the relevant capacity will obtain priority documents through the Digital Access Service from any digital library which has been the subject of a notification in accordance with paragraph 10 of the Framework Provisions, including libraries for which such a notification is subsequently made with effect prior to the date on which the Office or Bureau is requested to retrieve the priority document.

(c) An Office or Authority which has given a notification to the International Bureau under paragraph (a)(i) or (b) shall notify the International Bureau of any change in the information so notified.

(d) The International Bureau shall promptly publish in the Gazette any notification received by it under paragraph (a)(i) or (b) of this Section, any declaration made by it under paragraph (a)(i) or (b), and any change in the information so declared.

(e) The effective date of any change published under paragraph (d) shall be as specified by the Office or Authority concerned or by the International Bureau, as the case may be, provided that any change which restricts the ability of the applicant to request the Office, the Authority or the International Bureau to obtain a priority document from the digital library shall, except in the case where priority documents are no longer held in the digital library, not be effective earlier than two months after the date of publication of the change in the Gazette.

716 Request that Priority Document Be Obtained from a Digital Library under Rule 17.1(b- *bis*)

(a) Any request under Rule 17.1(b- *bis*):

(i) shall identify the priority document concerned in accordance with Rule 4.10(a); and

(ii) shall, where required, include the access code provided to the applicant by the International Bureau or by the Office with which the earlier application was filed.

(b) Where the applicant, in accordance with Rule 17.1(b- *bis*) and paragraph (a) of this Section, requests the International Bureau to obtain a priority document which, in accordance with Section 715(a), is considered to be available from a digital library to it, but the International Bureau finds that the priority document is in fact not available to it, the

[1] *Editor's Note* : Established by the International Bureau on 31 March 2009 and available from the WIPO website at: **www.wipo.int/das/en/documentation.html**.

International Bureau, shall notify the applicant, giving the opportunity to furnish the priority document to it, or to ensure that the document is made available to it from a digital library, within a time limit of not less than two months from the date of the notification or within the time limit specified in Rule 17.1(a), whichever time limit expires later. Where the priority document is furnished or becomes available to the International Bureau within that time limit, the requirements of Rule 17.1(b- *bis*) shall be considered to have been met. If the priority document is not so furnished or does not become available within that time limit, the request that the document be obtained from a digital library shall be considered not to have been made.

(c) Where the applicant requests the International Bureau under Rule 17.1(b- *bis*) to obtain a priority document from a digital library but that request does not comply with the requirements of that Rule and paragraph (a) of this Section, or the priority document concerned is not considered to be available to it in accordance with Section 715(a), the International Bureau shall promptly inform the applicant accordingly.

PART 8

INSTRUCTIONS RELATING TO OBSERVATIONS BY THIRD PARTIES

801 Third Party Observation System

(a) The International Bureau shall provide an electronic system for third parties to make observations referring to prior art which they believe to be relevant to the question of whether the invention claimed in the international application is new and/or involves an inventive step ("third party observation system").

(b) The third party observation system:

(i) shall provide a third party with the option to remain anonymous;

(ii) shall allow observations to include a brief explanation of the relevance of each prior art document referred to in the observation and to include a copy of the prior art document;

(iii) may limit the number of prior art documents which may be referred to in one observation; and

(iv) may limit the number of observations permitted to be made in relation to one international application, per third party and in total.

(c) The International Bureau shall take technical steps to prevent abuse of the third party observation system.

(d) The International Bureau may temporarily or indefinitely suspend the use of the third party observation system if it considers it necessary to do so.

802 Filing of a Third Party Observation

(a) An observation by a third party made in relation to an international application shall:

(i) be submitted to the International Bureau through the third party observation system as provided in Section 801;

(ii) be submitted between the date of international publication and 28 months from the priority date of the international application indicated;

(iii) be in a language of publication, with the exception that copies of submitted prior art documents may be in any language;

(iv) relate to the international application indicated;

(v) refer to prior art;

(vi) be free of viruses or other forms of malicious logic;

(vii) be free of comments or other matter not relevant to the question of novelty or inventive step of the invention claimed in the international application; and

(viii) be free of comments or other matter which are an abuse of the third party observation system.

(b) Any purported observation by a third party which, in the view of the International Bureau, appears not to be in compliance with paragraph (a) shall not be treated as a third party observation. The

International Bureau shall inform the third party accordingly, unless the purported observation appears to be a clear attempt at abuse of the system. The purported observation shall not be open to public inspection and shall not be communicated to the applicant, any International Authority or any designated Office.

803 Availability of an Observation and Related Information

(a) Any third party observation shall be promptly made available for public inspection, with the exception that copies of prior art documents uploaded through the system shall be made available only to the applicant, competent International Authorities and designated Offices.

(b) Where the third party requests the International Bureau to remain anonymous as provided in Section 801(b), the International Bureau shall not reveal any details of the third party to the public, the applicant, any International Authority or any designated Office.

804 Notification of Receipt of an Observation to the Applicant and Comments by the Applicant in Response to an Observation

(a) The International Bureau shall notify the applicant when the first third party observation is received in relation to an international application. If further observations are received, the International Bureau shall notify the applicant of the receipt of all further observations promptly after the expiration of 28 months from the priority date.

(b) The applicant may, within 30 months from the priority date, submit comments in response to any third party observation which has been received. The comments shall be submitted in English, French or the language of publication of the international application, at the choice of the applicant, and shall be promptly made available for public inspection.

805 Communication of Observations and Comments to International Authorities and Designated Offices

(a) The International Bureau shall communicate any third party observation and any comment by the applicant promptly to the International Searching Authority specified to carry out the international search, the International Searching Authority specified to carry out the supplementary international search and the International Preliminary Examining Authority specified to carry out the international preliminary examination, unless the international search report, the supplementary international search report or the international preliminary examination report, respectively, has already been received by the International Bureau.

(b) Promptly after the expiration of 30 months from the priority date, the International Bureau shall communicate any third party observation and any comment by the applicant to all designated Offices, subject to Rule 93 *bis* . The designated Offices shall not be obliged to take either the observations or any comments into account during national processing.

[Annexes follow]

Annex A

FORMS

[Editor's Note: This Annex, which is not reproduced here, contains Forms for use by applicants and by the International Authorities, including those referred to in Section 102 of the Administrative Instructions. It consists of five Parts, as follows:

Part I: Forms Relating to the Receiving Office;

Part II: Forms Relating to the International Searching Authority and to Authority Specified for Supplementary Search;

Part III: Forms Relating to the International Bureau;

Part IV: Forms Relating to the International Preliminary Examining Authority;

Part V: Request and Demand Forms.

These forms are available from the WIPO website at: ***www.wipo.int/pct/en/forms/index.htm*** .]

[Annex B follows]

Annex B

UNITY OF INVENTION

(a) **Unity of Invention**. Rule 13.1 deals with the requirement of unity of invention and states the principle that an international application should relate to only one invention or, if there is more than one invention, that the inclusion of those inventions in one international application is only permitted if all inventions are so linked as to form a single general inventive concept.

(b) **Technical Relationship**. Rule 13.2 defines the method for determining whether the requirement of unity of invention is satisfied in respect of a group of inventions claimed in an international application. Unity of invention exists only when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding "special technical features". The expression "special technical features" is defined in Rule 13.2 as meaning those technical features that define a contribution which each of the inventions, considered as a whole, makes over the prior art. The determination is made on the contents of the claims as interpreted in light of the description and drawings (if any).

(c) **Independent and Dependent Claims**. Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims. By "dependent" claim is meant a claim which contains all the features of another claim and is in the same category of claim as that other claim (the expression "category of claim" referring to the classification of claims according to the subject matter of the invention claimed for example, product, process, use or apparatus or means, etc.).

(i) If the independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect of any claims that depend on the independent claims. In particular, it does not matter if a dependent claim itself contains a further invention. Equally, no problem arises in the case of a genus/species situation where the genus claim avoids the prior art. Moreover, no problem arises in the case of a combination/subcombination situation where the subcombination claim avoids the prior art and the combination claim includes all the features of the subcombination.

(ii) If, however, an independent claim does not avoid the prior art, then the question whether there is still an inventive link between all the claims dependent on that claim needs to be carefully considered. If there is no link remaining, an objection of lack of unity a *posteriori* (that is, arising only after assessment of the prior art) may be raised. Similar considerations apply in the case of a

genus/species or combination/subcombination situation.

(iii) This method for determining whether unity of invention exists is intended to be applied even before the commencement of the international search. Where a search of the prior art is made, an initial determination of unity of invention, based on the assumption that the claims avoid the prior art, may be reconsidered on the basis of the results of the search of the prior art.

(d) **Illustrations of Particular Situations**. There are three particular situations for which the method for determining unity of invention contained in Rule 13.2 is explained in greater detail:

(i) combinations of different categories of claims;

(ii) so-called "Markush practice"; and

(iii) intermediate and final products.

Principles for the interpretation of the method contained in Rule 13.2, in the context of each of those situations are set out below. It is understood that the principles set out below are, in all instances, interpretations of and not exceptions to the requirements of Rule 13.2.

Examples to assist in understanding the interpretation on the three areas of special concern referred to in the preceding paragraph are set out below.

(e) **Combinations of Different Categories of Claims**. The method for determining unity of invention under Rule 13.2 shall be construed as permitting, in particular, the inclusion of any one of the following combinations of claims of different categories in the same international application:

(i) in addition to an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of the said product, and an independent claim for a use of the said product, or

(ii) in addition to an independent claim for a given process, an independent claim for an apparatus or means specifically designed for carrying out the said process, or

(iii) in addition to an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of the said product and an independent claim for an apparatus or means specifically designed for carrying out the said process,

it being understood that a process is specially adapted for the manufacture of a product if it inherently results in the product and that an apparatus or means is specifically designed for carrying out a process if the contribution over the prior art of the apparatus or means corresponds to the contribution the process makes over the prior art.

Thus, a process shall be considered to be specially adapted for the manufacture of a product if the claimed process inherently results in the claimed product with the technical relationship being present between the claimed product and claimed process. The words "specially adapted" are not intended to imply that the product could not also be manufactured by a different process.

Also an apparatus or means shall be considered to be "specifically designed for carrying out" a claimed process if the contribution over the prior art of the apparatus or means corresponds to the contribution the process makes over the prior art. Consequently, it would not be sufficient that the apparatus or means is merely capable of being used in carrying out the claimed process. However, the expression "specifically designed" does not imply that the apparatus or means could not be used for carrying out another process, nor that the process could not be carried out using an alternative apparatus or means.

(f) **"Markush Practice."** The situation involving the so-called "Markush practice" wherein a single claim defines alternatives (chemical or non-chemical) is also governed by Rule 13.2. In this special situation, the requirement of a technical interrelationship and the same or corresponding special technical features as defined in Rule 13.2, shall be considered to be met when the alternatives are of a similar nature.

(i) When the Markush grouping is for alternatives of chemical compounds, they shall be regarded as being of a similar nature where the following criteria are fulfilled:

(A) all alternatives have a common property or activity, and

(B)(1) a common structure is present, i.e., a significant structural element is shared by all of the alternatives, or

(B)(2) in cases where the common structure cannot be the unifying criteria, all alternatives belong to a recognized class of chemical compounds in the art to which the invention pertains.

(ii) In paragraph (f)(i)(B)(1), above, the words "significant structural element is shared by all of the alternatives" refer to cases where the compounds share a common chemical structure which occupies a large portion of their structures, or in case the compounds have in common only a small portion of their structures, the commonly shared structure constitutes a structurally distinctive portion in view of existing prior art, and the common structure is essential to the common property or activity. The structural element may be a single component or a combination of individual components linked together.

(iii) In paragraph (f)(i)(B)(2), above, the words "recognized class of chemical compounds" mean that there is an expectation from the knowledge in the art that members of the class will behave in the same way in the context of the claimed invention. In other words, each member could be substituted one for the other, with the expectation that the same intended result would be achieved.

(iv) The fact that the alternatives of a Markush grouping can be differently classified shall not, taken alone, be considered to be justification for a finding of a lack of unity of invention.

(v) When dealing with alternatives, if it can be shown that at least one Markush alternative is not novel over the prior art, the question of unity of invention shall be reconsidered by the examiner. Reconsideration does not necessarily imply that an objection of lack of unity shall be raised.

(g) **Intermediate and Final Products**. The situation involving intermediate and final products is also governed by Rule 13.2.

(i) The term "intermediate" is intended to mean intermediate or starting products. Such products have the ability to be used to produce final products through a physical or chemical change in which the intermediate loses its identity.

(ii) Unity of invention shall be considered to be present in the context of intermediate and final products where the following two conditions are fulfilled:

(A) the intermediate and final products have the same essential structural element, in that:

(1) the basic chemical structures of the intermediate and the final products are the same, or

(2) the chemical structures of the two products are technically closely interrelated, the intermediate incorporating an essential structural element into the final product, and

(B) the intermediate and final products are technically interrelated, this meaning that the final product is manufactured directly from the intermediate or is separated from it by a small number of intermediates all containing the same essential structural element.

(iii) Unity of invention may also be considered to be present between intermediate and final products of which the structures are not known — for example, as between an intermediate having a known structure and a final product the structure of which is not known, or as between an intermediate of unknown structure and a final product of unknown structure. In order to satisfy unity in such cases, there shall be sufficient evidence to lead one to conclude that the intermediate and final products are technically closely interrelated as, for example, when the intermediate contains the same essential element as the final product or incorporates an essential element into the final product.

(iv) It is possible to accept in a single international application different intermediate products used in different processes for the preparation of the final product, provided that they have the same essential structural element.

(v) The intermediate and final products shall not be separated, in the process leading from one to the other, by an intermediate which is not new.

(vi) If the same international application claims different intermediates for different structural parts of the final product, unity shall not be regarded as being present between the intermediates.

(vii) If the intermediate and final products are families of compounds, each intermediate

compound shall correspond to a compound claimed in the family of the final products. However, some of the final products may have no corresponding compound in the family of the intermediate products so that the two families need not be absolutely congruent.

(h) As long as unity of invention can be recognized applying the above interpretations, the fact that, besides the ability to be used to produce final products, the intermediates also exhibit other possible effects or activities shall not affect the decision on unity of invention.

(i) Rule 13.3 requires that the determination of the existence of unity of invention be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim.

(j) Rule 13.3 is not intended to constitute an encouragement to the use of alternatives within a single claim, but is intended to clarify that the criterion for the determination of unity of invention (namely, the method contained in Rule 13.2) remains the same regardless of the form of claim used.

(k) Rule 13.3 does not prevent an International Searching or Preliminary Examining Authority or an Office from objecting to alternatives being contained within a single claim on the basis of considerations such as clarity, the conciseness of claims or the claims fee system applicable in that Authority or Office.

(l) Examples giving guidance on how these principles may be interpreted in particular cases are set out in the PCT International Search and Preliminary Examination Guidelines.

[Annex C follows]

Annex C

INSTRUCTIONS RELATING TO THE PRESENTATION OF NUCLEOTIDE AND AMINO ACID SEQUENCE LISTINGS IN INTERNATIONAL PATENT APPLICATIONS UNDER THE PCT

INTRODUCTION

1. In accordance with Rule 5.2(a), where the international application contains disclosure of nucleotide and/or amino acid sequences that, pursuant to the Administrative Instructions, are required to be included in a sequence listing, the description shall include a sequence listing part of the description complying with the standard provided for in the Administrative Instructions. In accordance with Section 208, any sequence listing, whether forming part of the international application or not forming part of the international application, shall comply with Annex C (this Annex).

2. This Annex provides the Instructions referred to above in relation to the filing and processing of sequence listings, whether forming part of an international applications or not forming part of an international application.

DEFINITIONS

3. For the purposes of these Instructions:

(a) the expressions “sequence listing”, “nucleotide” and “amino acid” have the same meaning as in WIPO Standard ST.26;

(b) the expression “sequence listing forming part of the international application” means a sequence listing contained in the international application as filed, including any sequence listing which:

(i) is included in the international application under Rule 20.5(b) or(c) or Rule 20.5 *bis*(b) or (c),

(ii) is considered to have been contained in the international application under Rule 20.6(b),

(iii) has been corrected under Rule 26, rectified under Rule 91 or amended under Article 34(2)(b), or

(iv) is included in the international application by way of an amendment under Article 34(2)(b) of the description in relation to sequences contained in the international application as filed but not originally included in a sequence listing;

(c) the expression "sequence listing not forming part of the international application" means a sequence listing that does not form part of the international application but is furnished for the purposes of the international search or international preliminary examination.

RELATIONSHIP WITH WIPO STANDARD ST.26

4. The sequence listing part of the description shall comply with WIPO Standard ST.26. Subject to the specific requirements set out in this Annex, that Standard shall apply to any nucleotide or amino acid sequence disclosure in an international application, notably with regard to:

(a) whether such disclosure is to be included in a sequence listing;

(b) the manner in which disclosures are to be presented;

(c) the qualifiers for which "free text" is permitted as a value and the identification of those qualifiers for which such free text is considered language-dependent; and

(d) the Document Type Definition (DTD) for a sequence listing in XML (eXtensible Markup Language).

5. Following any revision of WIPO Standard ST.26, the Director General shall decide a date from which the revised version of that Standard shall apply to international applications and publish that information in the Gazette, together with any transitional provisions concerning the furnishing on or after that date of sequence listings related to international applications filed prior to that date.

SEQUENCES REQUIRED TO BE PRESENTED IN A SEQUENCE LISTING

6. In accordance with WIPO Standard ST.26, a sequence required to be included in a sequence listing for the purposes of Rule 5.2 is one that is disclosed anywhere in an international application by enumeration of its residues and can be represented as:

(a) an unbranched sequence or a linear region of a branched sequence containing ten or more specifically defined nucleotides, wherein adjacent nucleotides are joined by:

(i) a 3' to 5' (or 5' to 3') phosphodiester linkage; or

(ii) any chemical bond that results in an arrangement of adjacent nucleobases that mimics the arrangement of nucleobases in naturally occurring nucleic acids; or

(b) an unbranched sequence or a linear region of a branched sequence containing four or more specifically defined amino acids, wherein the amino acids form a single peptide backbone, that is, adjacent amino acids are joined by peptide bonds.

7. In accordance with WIPO Standard ST.26, a sequence listing must not include, as a sequence assigned its own sequence identification number, any sequences having fewer than ten specifically defined nucleotides or fewer than four specifically defined amino acids.

PRESENTATION OF SEQUENCES IN THE INTERNATIONAL APPLICATION

8. Where sequences are included in a sequence listing, Offices may not require that the sequences also appear in the main part of the description. However, in specific cases, the applicant may have valid reasons for setting out some sequences from the sequence listing in the main part of the description, claims or drawings. Where any sequences are presented within the main part of description, claims or drawings, they may be set out in the manner considered most appropriate to present the information for the relevant purpose. In the description, claims or drawings of the application, the sequences included in the sequence listing shall be referred to by the sequence identifier preceded by "SEQ ID NO:", even if the sequence is also embedded in the description, claims or drawings. Similarly, sequences too short to be included in the sequence listing may be presented in the manner considered most appropriate by the applicant.

LANGUAGE-RELATED REQUIREMENTS

9. WIPO Standard ST.26 prescribes the use of "controlled vocabulary" that must be used when describing the features of a sequence, that is, annotations of regions or sites of interest as set out in Annex I to the Standard.

10. Under the Standard, "qualifiers" are used to supply certain information about features in addition to that conveyed by the feature key and feature

location. There are several types of permitted "value formats" to accommodate different types of information conveyed by qualifiers, namely controlled vocabulary, enumerated values (for example, a number or date), "free text" and sequences.

11. The vocabulary set out in Annex I of the Standard that is not language-dependent shall be presented only in conformance with the requirements of WIPO Standard ST.26 and must not be translated. This includes:

(a) the nucleotide symbols set out in Section 1 and the amino acid symbols set out in Section 3;

(b) the abbreviations for modified nucleotides set out in Section 2 and the abbreviations for modified amino acids set out in Section 4 as the only permitted values for the certain qualifiers;

(c) the feature key names set out in Sections 5 and 7, and the qualifier names set out in Sections 6 and 8, notwithstanding that many of the allowed names of feature keys and qualifiers are in English or are English abbreviations (see, for example, feature keys 5.1 "C-region" and 7.18 "MOD_RES" (abbreviation of "modification of a residue"); and qualifiers 6.5 "cell_type" and 8.3 "organism");

(d) all "value formats" set out in Sections 6 and 8 allowed to be used to accommodate different types of information conveyed by qualifiers other than "free text" (that is, controlled vocabulary, enumerated values like a number or date, and sequences), notwithstanding that many of these allowed "value formats" contain elements in English or English abbreviations or are recognizably derived from English or Latin words (see, for example, qualifier 6.15 "direction", with the value format: "left", "right" or "both"); and

(e) "free text" qualifier values other than those identified in the Standard as language-dependent.

12. The language-dependent free text must be provided in a language which the receiving Office accepts for that purpose. WIPO Standard ST.26 allows language-dependent free text to be provided in either one or two languages within the same sequence listing: English (in the INSDQualifier_value element) and/or another specified language (in the NonEnglishQualifier_value element). The language or languages permitted or required to be used in any particular case are considered in paragraphs 16 to 19.

13. The language of any free text included in the NonEnglishQualifier_value element shall be indicated in the nonEnglishFreeTextLanguageCode attribute. The same language shall be used for the contents of all NonEnglishQualifier_value elements in a sequence listing. Where language-dependent free text is provided for any INSDQualifier_value or NonEnglishQualifier_value element, it shall be provided in the relevant language for all such elements.

14. The language considered to be the original language of all of the language-dependent free text, being the language, or one of the languages, of the language-dependent free text in the sequence listing furnished at the time of filing, shall preferably be indicated using the originalFreeTextLanguageCode attribute of the ST26SequenceListing element. The indicated language may be used in the international phase to assist the assessment and, where relevant, rectification of discrepancies found between an INSDQualifier_value element and a NonEnglishQualifier_value element for a language-dependent free text qualifier included in the sequence listing as filed. For national phase processing, the relevance of the indicated original language in cases where more than one language version of free text was included on the international filing date shall be a matter of national law.

15. WIPO Standard ST.26 requires that the name of the first mentioned applicant be provided in the language of filing. Where the name of the first mentioned applicant is not provided in Latin characters, a transliteration or translation must also be provided in Latin characters, irrespective of the language of the sequence listing otherwise. The title of the invention must be provided in the language of filing and may also be provided in additional languages. In any sequence listing translation submitted to the receiving Office, the International Bureau, the International Searching Authority or the International Preliminary Examining Authority, the applicant may add these items in the language of the translation, but shall not be required to do so.

Languages of the Sequence Listing as Filed

16. Rule 12.1(d) allows receiving Offices to specify the language or languages that may be used for language-dependent free text in a sequence listing forming part of the international application as filed. The Office may allow or require the language-dependent free text to be submitted in a language either the same as or different to that of the main body of the international application. The receiving Office may also permit, but may not require the sequence listing as filed to include language-dependent free text in a second language in accordance with WIPO Standard ST.26. This allows the language-dependent free text to be submitted simultaneously in the language of the main body of the international application as filed and in a different language required for the purposes of the international search or international publication under Rule 12.3 or 12.4. In this case, it is not required to submit the translation of the main body of the international application at the same time as the sequence listing; the translation of the main body may be provided at a later date and the translation as a whole will be considered as received on the date on which the final part of the translation is received.

Translations of the Sequence Listing

Where a translation of the language-dependent free text in the sequence listing of the international application or of an earlier application is required as part of a translation under Rule 12.3, 12.4, 12 *bis*.2(a)(ii), 20.6(a)(iii), 45 *bis*.1(c)(i), 49.5 or55.2(a), that translation shall be provided in the form of a new sequence listing containing all of the language-dependent free text in the required language, either in addition to or replacing languages in the sequence listing from which the text is being translated. The remainder of the sequence listing shall remain unchanged, save for:

(a) the appropriate attributes of ST26SequenceListing describing the content, notably including the productionDate and, where relevant, nonEnglishFreeTextLanguageCode;

(b) preferably, including the application identification details (IP Office code, international application number and international filing date) if these have been accorded and notified to the applicant, as well as, where applicable, updating any of the other elements of the general information part that have been modified since the international application was filed, or translating them into the language of the translated language-dependent free text. The receiving Office or International Authority shall not require correction or updating of any elements in the general information part solely because there are differences from the corresponding details in the remainder of the international application or the element details have changed between the international filing date and the date on which the translation is submitted, nor require translation of such elements.

18. The originalFreeTextLanguageCode attribute shall continue to indicate the original language, irrespective of whether that language version is included in the translated sequence listing.

Languages of Sequence Listings Not Forming Part of the International Application

19. Where a sequence listing is furnished under Rule 13 *ter*.1 or 13 *ter*.2 for the purposes of the international search or the international preliminary examination, the language-dependent free text shall be provided in one of the languages accepted by the International Searching Authority or the International Preliminary Examining Authority, normally the same language as that used for the main part of the description. The sequence listing may also include the language-dependent free text in a second language, normally either the language of filing or English.

FILING AN INTERNATIONAL APPLICATION CONTAINING A SEQUENCE LISTING OR FURNISHING A SEQUENCE LISTING AFTER FILING

20. The requirement that a sequence listing be presented as an XML file under WIPO Standard ST.26 means that it can only be filed or furnished in electronic form. An application containing sequences as described in paragraph 6 without such a sequence listing is defective and may be difficult to correct at a later stage. It is strongly recommended that the sequence listing be prepared using WIPO SEQUENCE or equivalent software, which validates the form and aspects of the content of the sequence listing.

21. Where an international application containing a sequence listing is filed in electronic form, whether transmitted by electronic or physical means, the sequence listing should preferably form part of a package filed in accordance with Annex F,

with the sequence listing indexed in accordance with the standards set out in that Annex.

22. Notwithstanding paragraph 21, any receiving Office may accept an electronic file appearing to contain a sequence listing submitted separately from the main package on the date of filing and should accept such a separate electronic file in any case where it is not practical for the applicant to include the sequence listing as part of the main package, for example, because the file size is too large to be handled by the software used for preparing or receiving the remainder of the international application. If the receiving Office is not able to process such an application, the application shall be considered to have been received by that Office on behalf of the International Bureau as receiving Office in accordance with Rule 19.4(a)(ii- *bis*).

SEQUENCE LISTING FILED ON SEPARATE PHYSICAL MEDIA

23. Any physical medium containing a sequence listing filed separately from a package as referred to in paragraph 21 or where the remainder of the international application is filed on paper, shall be clearly labeled “Sequence Listing” or its equivalent in the language of publication, to which the Office to which the sequence listing is submitted shall add the international application number. Where the sequence listing is submitted after the international filing date, the Office shall also indicate the nature of the sequence listing in accordance with the appropriate one of Sections 309 to 310ter , 325, 511, 513, 607 or 610. Preferably, the physical medium used for the transmittal of the sequence listing shall be of a type accepted by both the receiving Office and the International Searching Authority chosen to carry out the international search.

24. Where the file size of a sequence listing is too large to be included on a single physical medium, it shall be split such that the files can be rejoined to form one single contiguous file without any missing or repeating contents in accordance with the procedures set out in paragraphs 2(c) and (c- *bis*) of Appendix IV to Annex F of these Administrative Instructions. In addition to the labeling referred to in paragraph 23, the physical media shall each be numbered, for example “DISK 1/3”, “DISK 2/3”, “DISK 3/3”.

SEQUENCE LISTING IN ELECTRONIC FORM WITH THE REMAINDER OF THE INTERNATIONAL APPLICATION FILED ON PAPER

25. Applicants are strongly discouraged from filing international applications with the main body on paper and the sequence listing separately in electronic form. Nevertheless, in accordance with Section 703 paragraphs (d) and (e), any receiving Office may accept an international application filed in that way and should do so if it is apparent that it would not have been practical for the applicant to file the application with the receiving Office in any other way. If the receiving Office is not able to process such an application, the application shall be considered to have been received by that Office on behalf of the International Bureau as receiving Office in accordance with Rule 19.4(a)(ii- *bis*).

RECEIVING AND PROCESSING AN INTERNATIONAL APPLICATION CONTAINING A SEQUENCE LISTING

CHECKING BY THE RECEIVING OFFICE

Electronic File Appearing to Be a Sequence Listing

26. The receiving Office shall treat any electronic file appearing to be a sequence listing in WIPO Standard ST.26 XML format as a sequence listing forming part of the international application if it is received on or before the date on which the receiving Office determines that the papers purporting to be an international application fulfill all of the requirements under Article 11(1), whether or not that listing is referred to in the main part of the description or in the request, even if it is not correctly marked as such, except for the case where a second sequence listing is provided as part of a translation for international search under Rule 12.3 or international publication under Rule 12.4. This is independent of the question whether or not the electronic file purporting or appearing to be a sequence listing is in fact compliant with WIPO Standard ST.26 (which is not required to be checked by the receiving Office but only by the International Searching Authority). Where the receiving Office finds that a separate electronic file disclosing sequences appears to be in a format other than in WIPO Standard ST.26 XML format, it shall seek clarification from the applicant on whether the content of the file is intended to form part of the

description and invite the applicant to furnish the content in the format accepted for the main part of the description if necessary. For this purpose, the receiving Office may require a statement from the applicant that the content of the document resubmitted in the accepted format is identical to that of the electronic file originally submitted. Alternatively, the receiving Office may convert the file to that format on agreement from the applicant.

Checking for Compliance with WIPO Standard ST.26 and for Other Defects

27. The receiving Office shall not be required to perform automated validations to check whether a sequence listing is compliant with WIPO Standard ST.26 or otherwise to check whether its contents are compliant with the requirements of the Rules and these Administrative Instructions. However, where the Office becomes aware of a defect, for example, because its online filing processes or other Office procedures check the sequence listing file using the validation tool provided for the purpose by the International Bureau, the Office may notify the applicant accordingly.

28. Where the receiving Office identifies a discrepancy between any of the information in the general information part of the sequence listing and the corresponding information in the request or application body, the receiving Office may draw the fact to the applicant's attention. The applicant may correct the discrepancy within the time limit provided for in Rule 26.2 but shall not be required to do so. The international application shall be processed on the basis of the indications made in the request.

Calculation of International Filing Fee

29. In accordance with Section 707(a- *bis*), where the international application as filed contains an electronic file appearing to be a sequence listing in WIPO Standard ST.26 XML format, the calculation of the international filing fee shall, in the calculation of the number of sheets, not take into account any material contained in such an electronic file. However, where the electronic file is in any other format, or it is obviously not a sequence listing, for example, the main part of the description, claims or drawings mislabeled as a sequence listing, such a file should be taken into account in the calculation of the number of sheets.

Processing of a Sequence Listing Submitted After the International Filing Date

30. Where a sequence listing is received after the international filing date under any of Rules 12.3 (translation for the purposes of international search), 12.4 (translation for the purposes of international publication) or 26.4 (correction of a defect), the receiving Office shall forward a copy of the sequence listing to the International Searching Authority and to the International Bureau together with any replacement sheets also submitted for the relevant purpose, in accordance with Section 305 *bis* or 325, as applicable under 335(a).

31. Where a sequence listing is received after the international filing date under Rule 13ter (sequence listing for the purposes of international search, not forming part of the international application), the receiving Office shall forward it to the International Searching Authority.

CHECKING BY THE INTERNATIONAL SEARCHING AUTHORITY OR THE INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

32. The International Searching Authority or the International Preliminary Examining Authority shall check that any sequence listing received as part of the search copy, or of a copy of the international application provided for the purposes of international preliminary examination, is compliant with the requirements of WIPO Standard ST.26 and that the language-dependent free text meets the language requirements of the Authority. Where the sequence listing contains defects, or where the international application contains sequences that should have been included in a sequence listing but were not, the Authority may invite the applicant to submit a sequence listing under Rule 13 *ter*.1 for the purposes of international search or 13 *ter*.2 for the purposes of international preliminary examination.

CORRECTION, RECTIFICATION AND AMENDMENT OF A SEQUENCE LISTING

33. Any correction under Rule 26, rectification under Rule 91 or amendment under Article 34(2)(b) of the description submitted in relation to a sequence listing forming part of the international application as filed and any sequence listing included in the international application by way of an amendment under Article 34(2)(b) of the description in relation

to sequences contained in the international application as filed shall be made by submitting a complete new sequence listing compliant with WIPO Standard ST.26 including the relevant correction, rectification or amendment. The nature of the correction, rectification or amendment shall be clearly explained in an accompanying letter.

34. In compliance with WIPO Standard ST.26, any sequence listing referred to in paragraph 33 shall, where possible, maintain the original numbering of the sequences in the application as filed, representing any "intentionally skipped sequence" as prescribed by WIPO Standard ST.26, where necessary. Otherwise, the sequences shall be numbered in compliance with that Standard in the order in which they appear in the international application.

35. Where the sequence listing referred to in paragraph 33 as proposed to be corrected, rectified or amended is presented on physical media, the media shall be labeled "Sequence Listing – Correction", "Sequence Listing – Rectification" or "Sequence Listing – Amendment", as the case may be, or the equivalents in the language of publication, together with the international application number.

36. Where the new sequence listing is received by the receiving Office, that Office shall not be required to check the content of the sequence listing. The Office may simply check that it has received an electronic file that appears to be a sequence listing, together with an accompanying letter and then forward these items to the International Searching Authority and International Bureau, together with any accompanying corrected, rectified or amended sheets of the main body of the international application.

INCORPORATION BY REFERENCE; MISSING AND ERRONEOUSLY FILED PARTS

37. A sequence listing missing from the international application as filed may be included into the international application under Rule 20.5, or a sequence listing erroneously filed may be removed and replaced under Rule 20.5 *bis*. Where relevant, the appropriate sequence listing may be confirmed as incorporated by reference under Rule 20.6.

38. In accordance with Section 335, the procedures for such arrangements are equivalent to those for other parts of the description. Where the sequence listing is not incorporated by reference and the international filing date is corrected, there is no need to compare the newly provided sequence listing to that from the earlier filed application and the receiving Office need only tag the sequence listing in the appropriate manner and proceed as in Sections 310 and 310 *bis*. Where the sequence listing is incorporated by reference, the procedure in Section 309 applies, in which case the receiving Office shall make the appropriate marking in the filename or metadata of the XML file containing the respective sequence listing. The receiving Office is recommended to seek guidance from the International Bureau if assistance is required in the comparison of sequence listings provided for confirmation of incorporation by reference with the sequence listing from an earlier application.

SEQUENCE LISTING NOT FORMING PART OF THE INTERNATIONAL APPLICATION

39. Any sequence listing furnished under Rule 13 *ter*.1, 13 *ter*.2 and 45 *bis*.5(c) to an International Authority for the purposes of international search or preliminary examination shall not form part of the international application, pursuant to Rule 13 *ter*.1(e) (where applicable, by virtue of Rules 13 *ter*.2 and 45 *bis*.5(c)). Any such sequence listing submitted shall be accompanied by a statement to the effect that the sequence listing does not go beyond the disclosure in the international application as filed.

40. Paragraphs 4 to 20 and 24 of this Annex shall apply mutatis mutandis to any such sequence listing. Such a sequence listing shall contain all sequences disclosed in the international application as filed that meet the criteria referred to in paragraph 6. In compliance with WIPO Standard ST.26, such a sequence listing shall, where possible, maintain the original numbering of the sequences in the application as filed, representing any "intentionally skipped sequence" as prescribed by WIPO Standard ST.26, where necessary. Otherwise, the sequences shall be numbered in compliance with that Standard in the order in which they appear in the international application.

41. Where such a sequence listing is furnished on physical media, the media shall be labeled "Sequence Listing Not Forming Part of the International Application", or its equivalent in the language of publication or of international

preliminary examination, together with the international application number.

TRANSMISSION OF SEQUENCE LISTINGS BETWEEN OFFICES

42. Where a sequence listing is to be transmitted between any of the receiving Office, the International Bureau, the International Searching Authority, the International Preliminary Examining Authority and a designated or elected Office, it shall be sent with the file contents unchanged from the version received from the applicant. Where the sequence listing is transmitted online, the international application number and type of sequence listing (as filed, corrected, for purpose of international search, etc.) shall be encoded in the filename, referencing XML or equivalent metadata appropriate to the means of online transmission.

43. Where a sequence listing was received on a physical medium, the sequence listing may be transmitted online, in which case, the international application number and type of sequence listing should be encoded in the filename or associated metadata in the same way as if the sequence listing had been received online. If the sequence listing is transmitted on a physical medium, the medium should be physically labelled as indicated in the relevant paragraphs above, without changing any of the content on the medium.

PROCEDURE BEFORE DESIGNATED AND ELECTED OFFICES

44. Rules 13 *ter*.3 and 76.5 require that no designated or elected Office shall require the applicant to furnish to it a sequence listing other than a sequence listing complying with the standard provided for in the Administrative Instructions. Where no sequence listing complying with the standard and containing the language-dependent free text in the language required for national processing is available to the designated or elected Office, that Office may require the applicant to furnish a translation under Rule 49.5 in the form of a new sequence listing according to paragraphs 17 and 18, within a time limit which shall be reasonable in the circumstances.

45. The designated or elected Office shall not require a new sequence listing as part of a translation under Rule 49.5 solely because a sequence listing already provided as part of the international application contains language-dependent free text in a second language in addition to that required for national processing or because the sequence listing does not contain national application identifiers in the general information part of the sequence listing.

[Annex D follows]

Annex D

INFORMATION FROM FRONT PAGE OF PUBLISHED INTERNATIONAL APPLICATION TO BE INCLUDED IN THE GAZETTE UNDER RULE 86.1(i)

The following information shall be extracted from the front page of the publication of the international publication for each published international application and shall, in accordance with Rule 86.1(i), appear in the corresponding entry of the Gazette:

1. as to the international publication:

1.1 the international publication number

1.2 the date of the international publication

1.3 an indication whether the following items were published in the published international application:

1.31 international search report

1.32 declaration under Article 17(2)

1.33 claims amended under Article 19(1)

1.34 statement under Article 19(1)

1.35 information concerning the removal of an erroneously filed element or part under Rule 20.5 *bis*(b) or (c)

1.36 request for rectification under the first sentence of Rule 91.3(d)

1.37 information concerning a missing element or part or a correct element or part as referred to in Rule 48.2(b)(v)

1.38 information concerning a priority claim under Rule 26 *bis*.2(d)

1.39 information concerning a request under Rule 26 *bis*.3 for restoration of the right of priority

1.4 the language in which the international application was filed

1.5 the language of publication of the international application

2. as to the international application:

2.1 the title of the invention

2.2 the symbol(s) of the International Patent Classification (IPC)

2.3 the international application number

2.4 the international filing date

3. as to any priority claim:

3.1 the application number of the earlier application

3.2 the date on which the earlier application was filed

3.3 where the earlier application is:

3.31 a national application: the country in which the earlier application was filed

3.32 a regional application: the authority entrusted with the granting of regional patents under the applicable regional patent treaty and, in the case referred to in Rule 4.10(b)(ii), a country party to the Paris Convention for the Protection of Industrial Property for which that earlier application was filed

3.33 an international application: the receiving Office with which it was filed

4. as to the applicant, inventor and agent:

4.1 their name(s)

4.2 their mailing address(es)

5. as to the designated States:

5.1 their names

5.2 the indication of any wish for a regional patent

5.3 the indication that every kind of protection available is sought, unless otherwise indicated

6. as to a statement concerning non-prejudicial disclosure or exception to lack of novelty:

6.1 the date of the disclosure

6.2 the place of the disclosure

6.3 the kind of the disclosure (e.g., exhibition, scientific publication, conference reports, etc.)

6.4 the title of the exhibition, publication or conference

7. as to any indication in relation to deposited biological material furnished under Rule 13 *bis* separately from the description:

7.1 the fact that such indication is published

7.2 the date on which the International Bureau received such indication

8. as to any declaration referred to in Rule 4.17 which was received by the International Bureau before the expiration of the time limit under Rule 26 *ter*.1:

8.1 the fact that such a declaration was made and a reference to the applicable item in Rule 4.17 under which it was made

[Annex E follows]

Annex E

INFORMATION TO BE PUBLISHED IN THE GAZETTE UNDER RULE 86.1(v)

1. The time limits applicable under Articles 22 and 39 in respect of each Contracting State.

2. The list of the non-patent literature agreed upon by the International Searching Authorities for inclusion in the minimum documentation.

3. The names of the national Offices which do not wish to receive copies under Article 13(2)(c).

4. The provisions of the national laws of Contracting States concerning international-type search.

5. The text of the agreements entered into between the International Bureau and the International Searching Authorities or the International Preliminary Examining Authorities.

6. The names of the national Offices which entirely or in part waived their rights to any communication under Article 20.

7. The names of the Contracting States which are bound by Chapter II of the PCT.

8. Index of concordance of international application numbers and international publication numbers, listed according to international application numbers.

9. Index of applicants' names giving, for each name, the corresponding international publication number(s).

10. Index of international publication numbers, grouped according to the International Patent Classification symbols.

11. Indication of any subject matter that will not be searched or examined by the various International Searching and Preliminary Examining Authorities under Rules 39 and 67.

12. Requirements of designated and elected Offices under Rules 49.5 and 76.5 in relation to the furnishing of translations.

13. The dates defining the period referred to in Rule 32.1(b) during which the international application, whose effects may be extended to a successor State under Rule 32.1, must have been filed.

14. The criteria for restoration of the right of priority applied by receiving Offices under Rule 26 *bis*.3 or designated Offices under Rule 49 *ter*.2, and any subsequent changes in that respect.

15. Information about the receiving Offices, the International Bureau and the International Searching and Preliminary Examining Authorities which provide for the excuse of delays in meeting time limits under Rule 82 *quater*.2.

[Annex F follows]

Annex F

STANDARD FOR THE ELECTRONIC FILING AND PROCESSING OF INTERNATIONAL APPLICATIONS

*[Editor's Note: **Annex F** consists of nine main sections and four appendices, the titles of which are reproduced below. The full text of **Annex F** and its Appendices are set out in two separate documents available from the WIPO Web site at: **https://www.wipo.int/pct/en/texts/index.html**.]*

1. *Introduction*
2. *The E-PCT standard: Overview and vision*
3. *E-PCT submission structure and format*
4. *IA documents packaging*
5. *Transmission*
6. *Electronic filing software*
7. [Deleted]
8. *Principles of electronic records management*
9. *Abbreviated expressions, interpretation and glossary*

Appendix I XML DTDs for the E-PCT Standard

Appendix II PKI Architecture for the E-PCT Standard

Appendix III Basic Common Standard for Electronic Filing

Appendix IV Use of Physical Media for the E-PCT Standard

[Annex G follows]

Annex G

NOTIFICATION OF RECEIPT AND TRANSFER OF FEES

I. INTRODUCTION

1. Pursuant to Rules 96.2(b) and 96.2(c) and Section 114 of the PCT Administrative Instructions, the notification of receipt of fees and the transfer of fees collected by one Office for the benefit of another Office shall be carried out in accordance with the provisions set out in this Annex.

2. This Annex provides the Instructions referred to above in relation to the filing and processing of sequence listings, whether forming part of an international applications or not forming part of an international application.

II. AGREEMENTS AND TIMETABLES

II.1 AGREEMENT TO PARTICIPATE IN THE WIPO FEE TRANSFER SERVICE

3. An Office ("participating Office") may agree with the International Bureau to participate in the WIPO process for exchanging fees via the International Bureau ("WIPO Fee Transfer Service") for PCT purposes by:

(a) transferring some or all fees collected by it for the benefit of another participating Office to that other participating Office via the International Bureau in accordance with the provisions set out in this Annex; and

(b) having some or all fees collected by another participating Office for its benefit transferred to it via the International Bureau in accordance with the provisions set out in this Annex.

4. Where a collecting Office and the corresponding beneficiary Office have agreed to participate in the WIPO Fee Transfer Service, the transfer of

(a) international filing fees under Rule 15.2(c) or (d) collected by the Office in its capacity as a receiving Office for the benefit of the International Bureau;

(b) search fees under Rule 16.1(c) or (d) collected by the Office in its capacity as a receiving Office for the benefit of a participating Office in its capacity as an International Searching Authority;

(c) supplementary search fees under Rule 45 *bis*.3(b) collected by the International Bureau for the benefit of a participating Office in its capacity as an Authority specified for supplementary search;

(d) handling fees under Rule 57.2(c) or (d) collected by an International Preliminary Examining Authority for the benefit of the International Bureau; and

(e) differences under Rule 16.1(e) relating to search fees received by the Office in its capacity as an International Searching Authority in a currency other than its fixed currency; from the collecting office to the International Bureau for further transfer to the beneficiary Office shall be considered to be the transfer of said fee in accordance with Rule 15.2(c) or (d), Rule 16.1(c) or (d), Rule 45 *bis*.3(b), Rule 57.2(c) or (d), or Rule 16.1(e), as applicable and shall not be considered a payment by the collecting office to a third party. The transfer shall be carried out promptly in accordance with a timetable for such transfers agreed between the Offices concerned and/or the International Bureau. The Office carrying out the transfer (including, where applicable, the International Bureau) shall bear all bank charges for the transfer of the fees.

5. A participating Office, in its capacity as an International Searching Authority, may agree with the International Bureau that some or all of the transfers of fees by it under paragraph 3(a) and the transfer of fees to it under paragraph 3(b) shall be subject to netting in accordance with the provisions set out in this Annex ("fee transfer subject to netting").

6. The agreement shall specify the formats referred to in paragraphs 10 and 14, below, in which notifications of fee payments and lists of fees to be transferred shall be exchanged.

7. The International Bureau shall publish a list of the PCT fee transfers that are part of the WIPO Fee Transfer Service for each participating Office in the PCT Gazette.

II.2 COMMON TIMETABLE FOR FEE LISTS AND FEE TRANSFERS

8. The International Bureau shall, following consultation with participating Offices and taking into account dates when Offices are closed or bank transfers may not be possible, annually establish a

timetable ("the common timetable") specifying the latest dates each month by which lists should be established under paragraphs 13 and 14, below, and transfer of fees made to and from the International Bureau under paragraphs 19 to 23, below. The timetable and any subsequently required modifications shall be transmitted to each participating Office and published in the PCT Gazette.

III. NOTIFICATION AND TRANSFER OF FEES VIA THE INTERNATIONAL BUREAU

III.1 NOTIFICATION OF THE RECEIPT OF FEES

Notification to the International Bureau by a Collecting Office

9. In accordance with Rule 96.2(b), a collecting Office shall promptly notify the International Bureau of each fee received in full by the Office for the benefit of the International Bureau or to be transferred to a beneficiary Office via the International Bureau. It shall preferably also promptly notify the International Bureau of other fees received, whether for the benefit of itself or of other beneficiary Offices in their role as receiving Office, International Searching Authority, Authority specified for supplementary search or International Preliminary Examining Authority.

10. A notification of a fee received by a collecting Office according to paragraph 9 shall be made to the International Bureau in a format agreed between the collecting Office and the International Bureau. The notification shall contain sufficient information to make clear the relevant international application and the type of fee paid and shall preferably be made using XML conforming to a DTD published for the purpose in Appendix I to Annex F.

11. In the case where an overpayment has been received, the fee shall be promptly notified as having been paid in the proper amount, without waiting for any refunds to be made.

Notification to the Beneficiary Office by the International Bureau

12. Where a notification under Rule 96.2(b) relates to a fee for a beneficiary Office other than the International Bureau, the International Bureau shall promptly inform the Office concerned. Where the search copy is transmitted to the International Searching Authority by the International Bureau on behalf of the receiving Office, information that the search fee has been paid may take the form of the transmission of the search copy and, where necessary, be delayed until the other requirements for such transmission have been met.

III.2 TRANSMISSION OF INFORMATION BY PARTICIPATING OFFICES TO THE INTERNATIONAL BUREAU CONCERNING MONTHLY OR OTHER PERIODIC FEE TRANSFERS

Transmission of fee transfer information by the Collecting Office

13. A participating collecting Office shall establish and transmit to the International Bureau, in accordance with the common timetable, a list of:

(a) the fees collected by that Office in the course of the preceding month or other agreed interval, which are to be paid to the International Bureau or to be transferred via the International Bureau for the benefit of another Office; and

(b) corrections and omissions relating to fees transferred, or which should have been transferred, in previous months.

14. The list shall be in a format agreed between the collecting Office and the International Bureau. The list shall contain sufficient information to validate the amounts to be transferred and shall preferably be made using XML conforming to the DTD published for the purpose in Appendix I of Annex F.

Differences in Fees Received by International Searching Authorities from Non-Participating Offices

15. Any participating International Searching Authority that receives search fees directly from receiving Offices in a prescribed currency different from the fixed currency shall, at agreed intervals, establish and transmit to the International Bureau a list of the amounts of fees received in the prescribed and fixed currencies in a format agreed between the Authority and the International Bureau, sufficient to determine the difference due to the International

Bureau or to the International Searching Authority in accordance with Rule 16.1(e).

16. The Authority shall also submit documentation agreed with the International Bureau showing the amounts transferred in the prescribed currency, the date, the exchange rate applied and the amount received in the fixed currency.

III.3 CHECKING OF FEE INFORMATION RECEIVED

17. The International Bureau shall check the fee information received in accordance with paragraphs 9, 13 and 15 against the information it holds in its databases with regard to the international applications concerned and confirm to that Office that the information it has received is consistent. In case of differences that require reconciliation, the International Bureau shall contact the participating Office. Where possible, any required corrections shall be made to the relevant notifications and lists in time to be reflected in the transmission of fees in the month following their receipt by the collecting Office.

III.4 CORRECTION OF ERRORS AND OMISSIONS

18. Any errors or omissions discovered in the information transmitted concerning fees collected by one Office for the benefit of another to be transferred through the WIPO Fee Transfer Service shall be notified promptly to the International Bureau. The International Bureau shall promptly inform any other Office to which the erroneous information has been transmitted, including notifying the beneficiary Office of any corrections required to amounts that have already been transferred to that Office. Where the error is discovered too late to correct the lists on which the transfers of fees are based during the same month, the correction shall be included in the lists and transfers to be made the following month.

III.5 CALCULATION OF AMOUNTS TO BE TRANSFERRED VIA THE INTERNATIONAL BUREAU; TRANSFER OF FEES VIA THE INTERNATIONAL BUREAU

III.5.1 Fee Transfers to the International Bureau Not Subject to Netting

19. Where a fee transfer referred to in paragraph 3, above, is not subject to netting, the collecting Office shall transfer the amount indicated in the list transmitted according to paragraph 13, above, no later than the date set in the common timetable for the purpose. The collecting Office shall bear all bank charges, if any, for this transfer.

III.5.2 Fee Transfers from the International Bureau Not Subject to Netting

20. Where a fee transfer referred to in paragraph 3, above, is not subject to netting, the International Bureau shall transmit a list of the fees to be transferred to the beneficiary Office and transfer the total amount indicated in that list no later than the dates set in the common timetable for those purposes. The International Bureau shall bear all bank charges, if any, for this transfer.

III.5.3 Fee Transfers Subject to Netting

21. Where the agreement between a participating Office and the International Bureau has specified under paragraph 5, above, that fee transfer shall be subject to netting, the International Bureau shall establish and transmit each month, to that participating Office (“netting office”), no later than the date set in the common timetable, a netting statement comprising:

(i) a list of the fees collected by other Offices for the benefit of the netting Office;

(ii) a list of the fees collected by the netting Office for the benefit of other Offices; and

(iii) an indication of the net amount in favor of the netting Office or of the International Bureau.

22. Where the net amount indicated on a netting statement is in favor of the participating Office, the International Bureau shall transfer the net amount to the netting Office no later than the date set in the common timetable. The International Bureau shall bear all bank charges, if any, for this transfer.

23. Where the net amount indicated on a netting statement is in favor of the International Bureau, the netting Office shall transfer the net amount to the International Bureau, no later than the date set in the common timetable. The participating Office shall bear all bank charges, if any, for this transfer.

III.5.4 Transfer of Fees Not Included in the WIPO Fee Transfer Service

24. Any fee transfer between a collecting Office and a beneficiary Office that is not included in the WIPO Fee Transfer Service, despite one or other Office being a participating Office, shall be carried out in accordance with paragraph 25, below.

I. TRANSFER OF FEES BY OR TO OFFICES NOT PARTICIPATING IN THE WIPO FEE TRANSFER SERVICE

25. Where either a collecting Office or the corresponding beneficiary Office has not agreed to participate in the WIPO Fee Transfer Service ("non-participating Office"), the transfer, where applicable, of:

(a) international filing fees under Rule 15.2(c) or (d) collected by the Office in its capacity as a receiving Office for the benefit of the International Bureau;

(b) search fees under Rule 16.1(c) or (d) collected by the Office in its capacity as a receiving Office for the benefit of a non-participating Office in its capacity as an International Searching Authority;

(c) supplementary search fees under Rule 45 *bis*.3(b) collected by the International Bureau for the benefit of the non-participating Office in its capacity as an Authority specified for supplementary search;

(d) handling fees under Rule 57.2(c) or (d) collected by the Office in its capacity as an International Preliminary Examining Authority for the benefit of the International Bureau; and

(e) differences under Rule 16.1(e) relating to search fees received by the Office in its capacity as an International Searching Authority;shall be carried out promptly in accordance with Rule 15.2(c) or (d), Rule 16.1(c) or (d), Rule 45 *bis*.3(b), Rule 57.2(c) or (d), or Rule 16.1(e), as applicable, preferably in accordance with a monthly time table for such transfers agreed between the Offices concerned and/or the International Bureau. The Office carrying out the transfer shall bear all bank charges, if any, for the transfer of the fees referred to in paragraphs (a), (b) and (d) and, where the difference belongs to the International Bureau, paragraph (e), whereas the International Bureau shall bear all bank charges, if any, for the transfer of the fees referred to in paragraph (c) and, where the difference belongs to the Office in its capacity as an International Searching Authority, paragraph (e).

[End of Annex G and of document]