

Appendix T Patent Cooperation Treaty

Patent Cooperation Treaty
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TABLE OF CONTENTS¹

Preamble

Introductory Provisions

Article 1	Establishment of a Union
Article 2	Definitions

Chapter I: International Application and International Search

Article 3	The International Application
Article 4	The Request
Article 5	The Description
Article 6	The Claims
Article 7	The Drawings
Article 8	Claiming Priority
Article 9	The Applicant
Article 10	The Receiving Office
Article 11	Filing Date and Effects of the International Application
Article 12	Transmittal of the International Application to the International Bureau and the International Searching Authority
Article 13	Availability of Copy of the International Application to the Designated Offices
Article 14	Certain Defects in the International Application
Article 15	The International Search
Article 16	The International Searching Authority
Article 17	Procedure Before the International Searching Authority
Article 18	The International Search Report
Article 19	Amendment of the Claims Before the International Bureau
Article 20	Communication to Designated Offices
Article 21	International Publication
Article 22	Copy, Translation, and Fee, to Designated Offices

Article 23	Delaying of National Procedure
Article 24	Possible Loss of Effect in Designated States
Article 25	Review by Designated Offices
Article 26	Opportunity to Correct Before Designated Offices
Article 27	National Requirements
Article 28	Amendment of the Claims, the Description, and the Drawings, Before Designated Offices
Article 29	Effects of the International Publication
Article 30	Confidential Nature of the International Application

Chapter II: International Preliminary Examination

Article 31	Demand for International Preliminary Examination
Article 32	The International Preliminary Examining Authority
Article 33	The International Preliminary Examination
Article 34	Procedure Before the International Preliminary Examining Authority
Article 35	The International Preliminary Examination Report
Article 36	Transmittal, Translation, and Communication of the International Preliminary Examination Report
Article 37	Withdrawal of Demand or Election
Article 38	Confidential Nature of the International Preliminary Examination
Article 39	Copy, Translation, and Fee, to Elected Offices
Article 40	Delaying of National Examination and Other Processing
Article 41	Amendment of the Claims, the Description, and the Drawings, before Elected Offices
Article 42	Results of National Examination in Elected Offices

Chapter III: Common Provisions

Article 43	Seeking Certain Kinds of Protection
Article 44	Seeking Two Kinds of Protection
Article 45	Regional Patent Treaties
Article 46	Incorrect Translation of the International Application
Article 47	Time Limits

¹ This Table of Contents is added for the convenience of the reader. It does not appear in the signed text of the Treaty.

MANUAL OF PATENT EXAMINING PROCEDURE

Article 48	Delay in Meeting Certain Time Limits
Article 49	Right to Practice Before International Authorities

Chapter IV: Technical Services

Article 50	Patent Information Service
Article 51	Technical Assistance
Article 52	Relations with Other Provisions of the Treaty

Chapter V: Administrative Positions

Article 53	Assembly
Article 54	Executive Committee
Article 55	International Bureau
Article 56	Committee for Technical Cooperation
Article 57	Finances
Article 58	Regulations

Chapter VI: Disputes

Article 59	Disputes
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Chapter VII: Revision and Amendment

Article 60	Revision of the Treaty
Article 61	Amendment of Certain Provisions of the Treaty

Chapter VIII: Final Provisions

Article 62	Becoming Party to the Treaty
Article 63	Entry into Force of the Treaty
Article 64	Reservations
Article 65	Gradual Application
Article 66	Denunciation
Article 67	Signature and Languages
Article 68	Depositary Functions
Article 69	Notifications

The Contracting States,

Desiring to make a contribution to the progress of science and technology,

Desiring to perfect the legal protection of inventions,

Desiring to simplify and render more economical the obtaining of protection for inventions where protection is sought in several countries,

Desiring to facilitate and accelerate access by the public to the technical information contained in documents describing new inventions,

Desiring to foster and accelerate the economic development of developing countries through the adoption of measures designed to increase the effi-

ciency of their legal systems, whether national or regional, instituted for the protection of inventions by providing easily accessible information on the availability of technological solutions applicable to their special needs and by facilitating access to the ever expanding volume of modern technology,

Convinced that cooperation among nations will greatly facilitate the attainment of these aims,

Have concluded the present Treaty.

Introductory Provisions

Article 1

Establishment of a Union

(1) The States party to this Treaty (hereinafter called “the Contracting States”) constitute a Union for cooperation in the filing, searching, and examination, of applications for the protection of inventions, and for rendering special technical services. The Union shall be known as the International Patent Cooperation Union.

(2) No provision of this Treaty shall be interpreted as diminishing the rights under the Paris Convention for the Protection of Industrial Property of any national or resident of any country party to that Convention.

Article 2

Definitions

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

(i) “application” means an application for the protection of an invention; references to an “application” shall be construed as references to applications for patents for inventions, inventors’ certificates, utility certificates, utility models, patents or certificates of addition, inventors’ certificates of addition, and utility certificates of addition;

(ii) references to a “patent” shall be construed as references to patents for inventions, inventors’ certificates, utility certificates, utility models, patents or certificates of addition, inventors’ certificates of addition, and utility certificates of addition;

(iii) “national patent” means a patent granted by a national authority;

(iv) “regional patent” means a patent granted by a national or an intergovernmental authority having

the power to grant patents effective in more than one State;

(v) “regional application” means an application for a regional patent;

(vi) references to a “national application” shall be construed as references to applications for national patents and regional patents, other than applications filed under this Treaty;

(vii) “international application” means an application filed under this Treaty;

(viii) references to an “application” shall be construed as references to international applications and national applications;

(ix) references to a “patent” shall be construed as references to national patents and regional patents;

(x) references to “national law” shall be construed as references to the national law of a Contracting State or, where a regional application or a regional patent is involved, to the treaty providing for the filing of regional applications or the granting of regional patents;

(xi) “priority date,” for the purpose of computing time limits, means:

(a) where the international application contains a priority claim under Article 8, the filing date of the application whose priority is so claimed;

(b) where the international application contains several priority claims under Article 8, the filing date of the earliest application whose priority is so claimed;

(c) where the international application does not contain any priority claim under Article 8, the international filing date of such application;

(xii) “national Office” means the government authority of a Contracting State entrusted with the granting of patents; references to a “national Office” shall be construed as referring also to any intergovernmental authority which several States have entrusted with the task of granting regional patents, provided that at least one of those States is a Contracting State, and provided that the said States have authorized that authority to assume the obligations and exercise the powers which this Treaty and the Regulations provide for in respect of national Offices;

(xiii) “designated Office” means the national Office of or acting for the State designated by the applicant under Chapter I of this Treaty;

(xiv) “elected Office” means the national Office of or acting for the State elected by the applicant under Chapter II of this Treaty;

(xv) “receiving Office” means the national Office or the intergovernmental organization with which the international application has been filed;

(xvi) “Union” means the International Patent Cooperation Union;

(xvii) “Assembly” means the Assembly of the Union;

(xviii) “Organization” means the World Intellectual Property Organization;

(xix) “International Bureau” means the International Bureau of the Organization and, as long as it subsists, the United International Bureaux for the Protection of Intellectual Property (BIRPI);

(xx) “Director General” means the Director General of the Organization and, as long as BIRPI subsists, the Director of BIRPI.

Chapter I

International Application and International Search

Article 3

The International Application

(1) Applications for the protection of inventions in any of the Contracting States may be filed as international applications under this Treaty.

(2) An international application shall contain, as specified in this Treaty and the Regulations, a request, a description, one or more claims, one or more drawings (where required), and an abstract.

(3) The abstract merely serves the purpose of technical information and cannot be taken into account for any other purpose, particularly not for the purpose of interpreting the scope of the protection sought.

(4) The international application shall:

(i) be in a prescribed language;

(ii) comply with the prescribed physical requirements;

(iii) comply with the prescribed requirement of unity of invention;

(iv) be subject to the payment of the prescribed fees.

Article 4

The Request

(1) The request shall contain:

(i) a petition to the effect that the international application be processed according to this Treaty;

(ii) the designation of the Contracting State or States in which protection for the invention is desired on the basis of the international application (“designated States”); if for any designated State a regional patent is available and the applicant wishes to obtain a regional patent rather than a national patent, the request shall so indicate; if, under a treaty concerning a regional patent, the applicant cannot limit his application to certain of the States party to that treaty, designation of one of those States and the indication of the wish to obtain the regional patent shall be treated as designation of all the States party to that treaty; if, under the national law of the designated State, the designation of that State has the effect of an application for a regional patent, the designation of the said State shall be treated as an indication of the wish to obtain the regional patent;

(iii) the name of and other prescribed data concerning the applicant and the agent (if any);

(iv) the title of the invention;

(v) the name of and other prescribed data concerning the inventor where the national law of at least one of the designated States requires that these indications be furnished at the time of filing a national application. Otherwise, the said indications may be furnished either in the request or in separate notices addressed to each designated Office whose national law requires the furnishing of the said indications but allows that they be furnished at a time later than that of the filing of a national application.

(2) Every designation shall be subject to the payment of the prescribed fee within the prescribed time limit.

(3) Unless the applicant asks for any of the other kinds of protection referred to in Article 43, designation shall mean that the desired protection consists of the grant of a patent by or for the designated State. For the purposes of this paragraph, Article 2(ii) shall not apply.

(4) Failure to indicate in the request the name and other prescribed data concerning the inventor

shall have no consequence in any designated State whose national law requires the furnishing of the said indications but allows that they be furnished at a time later than that of the filing of a national application. Failure to furnish the said indications in a separate notice shall have no consequence in any designated State whose national law does not require the furnishing of the said indications.

Article 5

The Description

The description shall disclose the invention in a manner sufficiently clear and complete for the invention to be carried out by a person skilled in the art.

Article 6

The Claims

The claim or claims shall define the matter for which protection is sought. Claims shall be clear and concise. They shall be fully supported by the description.

Article 7

The Drawings

(1) Subject to the provisions of paragraph (2)(ii), drawings shall be required when they are necessary for the understanding of the invention.

(2) Where, without being necessary for the understanding of the invention, the nature of the invention admits of illustration by drawings:

(i) the applicant may include such drawings in the international application when filed,

(ii) any designated Office may require that the applicant file such drawings with it within the prescribed time limit.

Article 8

Claiming Priority

(1) The international application may contain a declaration, as prescribed in the Regulations, claiming the priority of one or more earlier applications filed in or for any country party to the Paris Convention for the Protection of Industrial Property.

(2)(a) Subject to the provisions of subparagraph (b), the conditions for, and the effect of, any

priority claim declared under paragraph (1) shall be as provided in Article 4 of the Stockholm Act of the Paris Convention for the Protection of Industrial Property.

(b) The international application for which the priority of one or more earlier applications filed in or for a Contracting State is claimed may contain the designation of that State. Where, in the international application, the priority of one or more national applications filed in or for a designated State is claimed, or where the priority of an international application having designated only one State is claimed, the conditions for, and the effect of, the priority claim in that State shall be governed by the national law of that State.

Article 9

The Applicant

(1) Any resident or national of a Contracting State may file an international application.

(2) The Assembly may decide to allow the residents and the nationals of any country party to the Paris Convention for the Protection of Industrial Property which is not party to this Treaty to file international applications.

(3) The concepts of residence and nationality, and the application of those concepts in cases where there are several applicants or where the applicants are not the same for all the designated States, are defined in the Regulations.

[NOTE: The PCT Assembly has not as yet allowed residents or nationals of non-PCT member countries to file PCT international applications.]

Article 10

The Receiving Office

The international application shall be filed with the prescribed receiving Office, which will check and process it as provided in this Treaty and the Regulations.

Article 11

Filing Date and Effects of the International Application

(1) The receiving Office shall accord as the international filing date the date of receipt of the inter-

national application, provided that Office has found that, at the time of receipt:

(i) the applicant does not obviously lack, for reasons of residence or nationality, the right to file an international application with the receiving Office,

(ii) the international application is in the prescribed language,

(iii) the international application contains at least the following elements:

(a) an indication that it is intended as an international application,

(b) the designation of at least one Contracting State,

(c) the name of the applicant, as prescribed,

(d) a part which on the face of it appears to be a description,

(e) a part which on the face of it appears to be a claim or claims.

(2)(a) If the receiving Office finds that the international application did not, at the time of receipt, fulfill the requirements listed in paragraph (1), it shall, as provided in the Regulations, invite the applicant to file the required correction.

(b) If the applicant complies with the invitation, as provided in the Regulations, the receiving Office shall accord as the international filing date the date of receipt of the required correction.

(3) Subject to Article 64(4), any international application fulfilling the requirement listed in items (i) to (iii) of paragraph (1) and accorded an international filing date shall have the effect of a regular national application in each designated State as of the international filing date, which date shall be considered to be the actual filing date in each designated State.

(4) Any international application fulfilling the requirements listed in items (i) to (iii) of paragraph (1) shall be equivalent to a regular national filing within the meaning of the Paris Convention for the Protection of Industrial Property.

Article 12

Transmittal of the International Application to the International Bureau and the International Searching Authority

(1) One copy of the international application shall be kept by the receiving Office (“home copy”),

one copy (“record copy”) shall be transmitted to the International Bureau, and another copy (“search copy”) shall be transmitted to the competent International Searching Authority referred to in Article 16, as provided in the Regulations.

(2) The record copy shall be considered the true copy of the international application.

(3) The international application shall be considered withdrawn if the record copy has not been received by the International Bureau within the prescribed time limit.

Article 13

Availability of Copy of the International Application to the Designated Offices

(1) Any designated Office may ask the International Bureau to transmit to it a copy of the international application prior to the communication provided for in Article 20, and the International Bureau shall transmit such copy to the designated Office as soon as possible after the expiration of one year from the priority date.

(2)(a) The applicant may, at any time, transmit a copy of his international application to any designated Office.

(b) The applicant may, at any time, ask the International Bureau to transmit a copy of his international application to any designated Office, and the International Bureau shall transmit such copy to the designated Office as soon as possible.

(c) Any national Office may notify the International Bureau that it does not wish to receive copies as provided for in subparagraph (b), in which case that subparagraph shall not be applicable in respect of that Office.

Article 14

Certain Defects in the International Application

(1)(a) The receiving Office shall check whether the international application contains any of the following defects, that is to say:

- (i) it is not signed as provided in the Regulations;
- (ii) it does not contain the prescribed indications concerning the applicant;
- (iii) it does not contain a title;
- (iv) it does not contain an abstract;

(v) it does not comply to the extent provided in the Regulations with the prescribed physical requirements.

(b) If the receiving Office finds any of the said defects, it shall invite the applicant to correct the international application within the prescribed time limit, failing which that application shall be considered withdrawn and the receiving Office shall so declare.

(2) If the international application refers to drawings which, in fact, are not included in that application, the receiving Office shall notify the applicant accordingly and he may furnish them within the prescribed time limit and, if he does, the international filing date shall be the date on which the drawings are received by the receiving Office. Otherwise, any reference to the said drawings shall be considered non-existent

(3)(a) If the receiving Office finds that, within the prescribed time limits, the fees prescribed under Article 3(4)(iv) have not been paid, or no fee prescribed under Article 4(2) has been paid in respect of any of the designated States, the international application shall be considered withdrawn and the receiving Office shall so declare.

(b) If the receiving Office finds that the fee prescribed under Article 4(2) has been paid in respect of one or more (but less than all) designated States within the prescribed time limit, the designation of those States in respect of which it has not been paid within the prescribed time limit shall be considered withdrawn and the receiving Office shall so declare.

(4) If, after having accorded an international filing date to the international application, the receiving Office finds, within the prescribed time limit, that any of the requirements listed in items (i) to (iii) of Article 11(1) was not complied with at that date, the said application shall be considered withdrawn and the receiving Office shall so declare.

Article 15

The International Search

(1) Each international application shall be the subject of international search.

(2) The objective of the international search is to discover relevant prior art.

PATENT COOPERATION TREATY

(3) International search shall be made on the basis of the claims, with due regard to the description and the drawings (if any).

(4) The International Searching Authority referred to in Article 16 shall endeavor to discover as much of the relevant prior art as its facilities permit, and shall, in any case, consult the documentation specified in the Regulations.

(5)(a) If the national law of the Contracting State so permits, the applicant who files a national application with the national Office of or acting for such State may, subject to the conditions provided for in such law, request that a search similar to an international search (international-type search) be carried out on such application.

(b) If the national law of the Contracting State so permits, the national Office of or acting for such State may subject any national application filed with it to an international-type search.

(c) The international-type search shall be carried out by the International Searching Authority referred to in Article 16 which would be competent for an international search if the national application were an international application and were filed with the Office referred to in subparagraphs (a) and (b). If the national application is in a language which the International Searching Authority considers it is not equipped to handle, the international-type search shall be carried out on a translation prepared by the applicant in a language prescribed for international applications and which the International Searching Authority has undertaken to accept for international applications. The national application and the translation, when required, shall be presented in the form prescribed for international applications.

Article 16

The International Searching Authority

(1) International search shall be carried out by an International Searching Authority, which may be either a national Office or an intergovernmental organization, such as the International Patent Institute, whose tasks include the establishing of documentary search reports on prior art with respect to inventions which are the subject of applications.

(2) If, pending the establishment of a single International Searching Authority, there are several International Searching Authorities, each receiving

Office shall, in accordance with the provisions of the applicable agreement referred to in paragraph(3)(b), specify the International Searching Authority or Authorities competent for the searching of international applications filed with such Office.

(3)(a) International Searching Authorities shall be appointed by the Assembly. Any national Office and any intergovernmental organization satisfying the requirements referred to in subparagraph (c) may be appointed as International Searching Authority.

(b) Appointment shall be conditional on the consent of the national Office or intergovernmental organization to be appointed and the conclusion of an agreement, subject to approval by the Assembly, between such Office or organization and the International Bureau. The agreement shall specify the rights and obligations of the parties, in particular, the formal undertaking by the said Office or organization to apply and observe all the common rules of international search.

(c) The Regulations prescribe the minimum requirements, particularly as to manpower and documentation, which any Office or organization must satisfy before it can be appointed and must continue to satisfy while it remains appointed.

(d) Appointment shall be for a fixed period of time and may be extended for further periods.

(e) Before the Assembly makes a decision on the appointment of any national Office or intergovernmental organization, or on the extension of its appointment, or before it allows any such appointment to lapse, the Assembly shall hear the interested Office or organization and seek the advice of the Committee for Technical Cooperation referred to in Article 56 once that Committee has been established.

Article 17

Procedure Before the International Searching Authority

(1) Procedure before the International Searching Authority shall be governed by the provisions of this Treaty, the Regulations, and the agreement which the International Bureau shall conclude, subject to this Treaty and the Regulations, with the said Authority.

(2)(a) If the International Searching Authority considers:

(i) that the international application relates to a subject matter which the International

Searching Authority is not required, under the Regulations, to search, and in the particular case decides not to search, or

(ii) that the description, the claims, or the drawings, fail to comply with the prescribed requirements to such an extent that a meaningful search could not be carried out, the said Authority shall so declare and shall notify the applicant and the International Bureau that no international search report will be established.

(b) If any of the situations referred to in subparagraph (a) is found to exist in connection with certain claims only, the international search report shall so indicate in respect of such claims, whereas, for the other claims, the said report shall be established as provided in Article 18.

(3)(a) If the International Searching Authority considers that the international application does not comply with the requirement of unity of invention as set forth in the Regulations, it shall invite the applicant to pay additional fees. The International Searching Authority shall establish the international search report on those parts of the international application which relate to the invention first mentioned in the claims (“main invention”) and, provided the required additional fees have been paid within the prescribed time limit, on those parts of the international application which relate to inventions in respect of which the said fees were paid.

(b) The national law of any designated State may provide that, where the national Office of the State finds the invitation, referred to in subparagraph (a), of the International Searching Authority justified and where the applicant has not paid all additional fees, those parts of the international application which consequently have not been searched shall, as far as effects in the State are concerned, be considered withdrawn unless a special fee is paid by the applicant to the national Office of that State.

Article 18

The International Search Report

(1) The international search report shall be established within the prescribed time limit and in the prescribed form.

(2) The international search report shall, as soon as it has been established, be transmitted by the

International Searching Authority to the applicant and the International Bureau.

(3) The international search report or the declaration referred to in Article 17(2)(a) shall be translated as provided in the Regulations. The translations shall be prepared by or under the responsibility of the International Bureau.

Article 19

Amendment of the Claims Before the International Bureau

(1) The applicant shall, after having received the international search report, be entitled to one opportunity to amend the claims of the international application by filing amendments with the International Bureau within the prescribed time limit. He may, at the same time, file a brief statement, as provided in the Regulations, explaining the amendments and indicating any impact that such amendments might have on the description and the drawings.

(2) The amendments shall not go beyond the disclosure in the international application as filed.

(3) If the national law of any designated State permits amendments to go beyond the said disclosure, failure to comply with paragraph (2) shall have no consequence in that State.

Article 20

Communication to Designated Offices

(1)(a) The international application, together with the international search report (including any indication referred to in Article 17(2)(b)) or the declaration referred to in Article 17(2)(a), shall be communicated to each designated Office, as provided in the Regulations, unless the designated Office waives such requirement in its entirety or in part.

(b) The communication shall include the translation (as prescribed) of the said report or declaration.

(2) If the claims have been amended by virtue of Article 19(1), the communication shall either contain the full text of the claims both as filed and as amended or shall contain the full text of the claims as filed and specify the amendments, and shall include the statement, if any, referred to in Article 19(1).

(3) At the request of the designated Office or the applicant, the International Searching Authority

shall send to the said Office or the applicant, respectively, copies of the documents cited in the international search report, as provided in the Regulations.

Article 21

International Publication

(1) The International Bureau shall publish international applications.

(2)(a) Subject to the exceptions provided for in subparagraph (b) and in Article 64(3), the international publication of the international application shall be effected promptly after the expiration of 18 months from the priority date of that application.

(b) The applicant may ask the International Bureau to publish his international application any time before the expiration of the time limit referred to in subparagraph (a). The International Bureau shall proceed accordingly, as provided in the Regulations.

(3) The international search report or the declaration referred to in Article 17(2)(a) shall be published as prescribed in the Regulations.

(4) The language and form of the international publication and other details are governed by the Regulations.

(5) There shall be no international publication if the international application is withdrawn or is considered withdrawn before the technical preparations for publication have been completed.

(6) If the international application contains expressions or drawings which, in the opinion of the International Bureau, are contrary to morality or public order, or if, in its opinion, the international application contains disparaging statements as defined in the Regulations, it may omit such expressions drawings, and statements, from its publications, indicating the place and number of words or drawings omitted, and furnishing, upon request, individual copies of the passages omitted.

Article 22

Copy, Translation, and Fee to Designated Offices

(1) The applicant shall furnish a copy of the international application (unless the communication provided for in Article 20 has already taken place) and a translation thereof (as prescribed), and pay the national fee (if any), to each designated Office not later than at the expiration of 30 months from the pri-

ority date. Where the national law of the designated State requires the indication of the name of and other prescribed data concerning the inventor but allows that these indications be furnished at a time later than that of the filing of a national application, the applicant shall, unless they were contained in the request, furnish the said indications to the national Office of or acting for the State not later than at the expiration of 30 months from the priority date.

(2) Where the International Searching Authority makes a declaration, under Article 17(2)(a), that no international search report will be established, the time limit for performing the acts referred to in paragraph (1) of this Article shall be the same as that provided for in paragraph (1).

(3) Any national law may, for performing the acts referred to in paragraphs (1) or (2), fix time limits which expire later than the time limit provided for in those paragraphs.

Article 23

Delaying of National Procedure

(1) No designated Office shall process or examine the international application prior to the expiration of the applicable time limit under Article 22.

(2) Notwithstanding the provisions of paragraph (1), any designated Office may, on the express request of the applicant, process or examine the international application at any time.

Article 24

Possible Loss of Effect in Designated States

(1) Subject, in case (ii) below, to the provisions of Article 25, the effect of the international application provided for in Article 11(3) shall cease in any designated State with the same consequences as the withdrawal of any national application in that State:

(i) if the applicant withdraws his international application or the designation of that State;

(ii) if the international application is considered withdrawn by virtue of Articles 12(3), 14(1)(b), 14(3)(a), or 14(4), or if the designation of that State is considered withdrawn by virtue of Article 14(3)(b);

(iii) if the applicant fails to perform the acts referred to in Article 22 within the applicable time limit.

(2) Notwithstanding the provisions of paragraph (1), any designated Office may maintain the effect provided for in Article 11(3) even where such effect is not required to be maintained by virtue of Article 25(2).

Article 25

Review by Designated Offices

(1)(a) Where the receiving Office has refused to accord an international filing date or has declared that the international application is considered withdrawn, or where the International Bureau has made a finding under Article 12(3), the International Bureau shall promptly send, at the request of the applicant, copies of any document in the file to any of the designated Offices named by the applicant.

(b) Where the receiving Office has declared that the designation of any given State is considered withdrawn, the International Bureau shall promptly send, at the request of the applicant, copies of any document in the file to the national Office of such State.

(c) The request under subparagraphs (a) or (b) shall be presented within the prescribed time limit.

(2)(a) Subject to the provisions of subparagraph (b), each designated Office shall, provided that the national fee (if any) has been paid and the appropriate translation (as prescribed) has been furnished within the prescribed time limit, decide whether the refusal, declaration, or finding, referred to in paragraph (1) was justified under the provisions of this Treaty and the Regulations, and, if it finds that the refusal or declaration was the result of an error or omission on the part of the receiving Office or that the finding was the result of an error or omission on the part of the International Bureau, it shall, as far as effects in the State of the designated Office are concerned, treat the international application as if such error or omission had not occurred.

(b) Where the record copy has reached the International Bureau after the expiration of the time limit prescribed under Article 12(3) on account of any error or omission on the part of the applicant, the provisions of subparagraph (a) shall apply only under the circumstances referred to in Article 48(2).

Article 26

Opportunity to Correct Before Designated Offices

No designated Office shall reject an international application on the grounds of noncompliance with the requirements of this Treaty and the Regulations without first giving the applicant the opportunity to correct the said application to the extent and according to the procedure provided by the national law for the same or comparable situations in respect of national applications.

Article 27

National Requirements

(1) No national law shall require compliance with requirements relating to the form or contents of the international application different from or additional to those which are provided for in this Treaty and the Regulations.

(2) The provisions of paragraph (1) neither affect the application of the provisions of Article 7(2) nor preclude any national law from requiring, once the processing of the international application has started in the designated Office, the furnishing:

(i) when the applicant is a legal entity, of the name of an officer entitled to represent such legal entity.

(ii) of documents not part of the international application but which constitute proof of allegations or statements made in that application, including the confirmation of the international application by the signature of the applicant when that application, as filed, was signed by his representative or agent.

(3) Where the applicant, for the purposes of any designated State, is not qualified according to the national law of that State to file a national application because he is not the inventor, the international application may be rejected by the designated Office.

(4) Where the national law provides, in respect of the form or contents of national applications, for requirements which, from the viewpoint of applicants, are more favorable than the requirements provided for by this Treaty and the Regulations in respect of international applications, the national Office, the courts and any other competent organs of or acting for the designated State may apply the former requirements, instead of the latter requirements, to international applications, except where the applicant insists that

the requirements provided for by this Treaty and the Regulations be applied to his international application.

(5) Nothing in this Treaty and the Regulations is intended to be construed as prescribing anything that would limit the freedom of each Contracting State to prescribe such substantive conditions of patentability as it desires. In particular, any provision in this Treaty and the Regulations concerning the definition of prior art is exclusively for the purposes of the international procedure and, consequently, any Contracting State is free to apply, when determining the patentability of an invention claimed in an international application, the criteria of its national law in respect of prior art and other conditions of patentability not constituting requirements as to the form and contents of applications.

(6) The national law may require that the applicant furnish evidence in respect of any substantive condition of patentability prescribed by such law.

(7) Any receiving Office or, once the processing of the international application has started in the designated Office, that Office may apply the national law as far as it relates to any requirement that the applicant be represented by an agent having the right to represent applicants before the said Office and/or that the applicant have an address in the designated State for the purpose of receiving notifications.

(8) Nothing in this Treaty and the Regulations is intended to be construed as limiting the freedom of any Contracting State to apply measures deemed necessary for the preservation of its national security or to limit, for the protection of the general economic interests of that State, the right of its own residents or nationals to file international applications.

Article 28

Amendment of the Claims, the Description, and the Drawings, Before Designated Offices

(1) The applicant shall be given the opportunity to amend the claims, the description, and the drawings, before each designated Office within the prescribed time limit. No designated Office shall grant a patent, or refuse the grant of a patent, before such time limit has expired except with the express consent of the applicant.

(2) The amendments shall not go beyond the disclosure in the international application as filed

unless the national law of the designated State permits them to go beyond the said disclosure.

(3) The amendments shall be in accordance with the national law of the designated State in all respects not provided for in this Treaty and the Regulations.

(4) Where the designated Office requires a translation of the international application, the amendments shall be in the language of the translation.

Article 29

Effects of the International Publication

(1) As far as the protection of any rights of the applicant in a designated State is concerned, the effects, in that State, of the international publication of an international application shall, subject to the provisions of paragraphs (2) to (4), be the same as those which the national law of the designated State provides for the compulsory national publication of unexamined national applications as such.

(2) If the language in which the international publication has been effected is different from the language in which publications under the national law are effected in the designated State, the said national law may provide that the effects provided for in paragraph (1) shall be applicable only from such time as:

(i) a translation into the latter language has been published as provided by the national law, or

(ii) a translation into the latter language has been made available to the public, by laying open for public inspection as provided by the national law, or

(iii) a translation into the latter language has been transmitted by the applicant to the actual or prospective unauthorized user of the invention claimed in the international application, or

(iv) both the acts described in (i) and (iii), or both the acts described in (ii) and (iii), have taken place.

(3) The national law of any designated State may provide that, where the international publication has been effected, on the request of the applicant, before the expiration of 18 months from the priority date, the effects provided for in paragraph (1) shall be applicable only from the expiration of 18 months from the priority date.

(4) The national law of any designated State may provide that the effects provided for in paragraph (1) shall be applicable only from the date on which a

copy of the international application as published under Article 21 has been received in the national Office of or acting for such State. The said Office shall publish the date of receipt in its gazette as soon as possible.

Article 30

Confidential Nature of the International Application

(1)(a) Subject to the provisions of subparagraph (b), the International Bureau and the International Searching Authorities shall not allow access by any person or authority to the international application before the international publication of that application, unless requested or authorized by the applicant.

(b) The provisions of subparagraph (a) shall not apply to any transmittal to the competent International Searching Authority, to transmittals provided for under Article 13, and to communications provided for under Article 20.

(2)(a) No national Office shall allow access to the international application by third parties unless requested or authorized by the applicant, before the earliest of the following dates:

- (i) date of the international publication of the international application,
- (ii) date of receipt of the communication of the international application under Article 20,
- (iii) date of receipt of a copy of the international application under Article 22.

(b) The provisions of subparagraph (a) shall not prevent any national Office from informing third parties that it has been designated, or from publishing that fact. Such information or publication may, however, contain only the following data: identification of the receiving Office, name of the applicant, international filing date, international application number, and title of the invention.

(c) The provisions of subparagraph (a) shall not prevent any designated Office from allowing access to the international application for the purposes of the judicial authorities.

(3) The provisions of paragraph (2)(a) shall apply to any receiving Office except as so far as transmittals provided for under Article 12(1) are concerned.

(4) For the purposes of this Article, the term “access” covers any means by which third parties may

acquire cognizance, including individual communication and general publication, provided, however, that no national Office shall generally publish an international application or its translation before the international publication or, if international publication has not taken place by the expiration of 20 months from the priority date, before the expiration of 20 months from the said priority date.

Chapter II

International Preliminary Examination

Article 31

Demand for International Preliminary Examination

(1) On the demand of the applicant, his international application shall be the subject of an international preliminary examination as provided in the following provisions and the Regulations.

(2)(a) Any applicant who is a resident or national, as defined in the Regulations, of a Contracting State bound by Chapter II, and whose international application has been filed with the receiving Office of or acting for such State, may make a demand for international preliminary examination.

(b) The Assembly may decide to allow persons entitled to file international applications to make a demand for international preliminary examination even if they are residents or nationals of a State not party to this Treaty or not bound by Chapter II.

(3) The demand for international preliminary examination shall be made separately from the international application. The demand shall contain the prescribed particulars and shall be in the prescribed language and form.

(4)(a) The demand shall indicate the Contracting State or States in which the applicant intends to use the results of the international preliminary examination (“elected States”). Additional Contracting States may be elected later. Election may relate only to Contracting States already designated under Article 4.

(b) Applicants referred to in paragraph (2)(a) may elect any Contracting State bound by Chapter II. Applicants referred to in paragraph (2)(b) may elect only such Contracting States bound by Chapter II as

MANUAL OF PATENT EXAMINING PROCEDURE

Rule 9	Expressions, Etc., Not To Be Used		Fulfilled
	9.1	Definition	13.3
	9.2	Noting of Lack of Compliance	Determination of Unity of Invention Not Affected
	9.3	Reference to Article 21(6) 5	13.4
			Manner of Claiming
			13.5
			Utility Models
Rule 10	Terminology and Signs	Rule 13 ^{bis}	Inventions Relating to Biological Material
	10.1	Terminology and Signs	13 ^{bis} .1
	10.2	Consistency	13 ^{bis} .2
Rule 11	Physical Requirements of the International Application		13 ^{bis} .3
	11.1	Number of Copies	References: Contents; Failure to Include Reference or Indication
	11.2	Fitness for Reproduction	13 ^{bis} .4
	11.3	Material to Be Used	References: Time Limit for Furnishing Indications
	11.4	Separate Sheets, Etc.	13 ^{bis} .5
	11.5	Size of Sheets	References and Indications for the Purposes of One or More Designated States; Different Deposits for Different Designated States; Deposits with Depository Institutions Other Than Those Notified
	11.6	Margins	13 ^{bis} .6
	11.7	Numbering of Sheets	Furnishing of Samples
	11.8	Numbering of Lines	13 ^{bis} .7
	11.9	Writing of Text Matter	National Requirements: Notification and Publication
	11.10	Drawings, Formulae, and Tables, in Text Matter	
	11.11	Words in Drawings	
	11.12	Alterations, Etc.	
	11.13	Special Requirements for Drawings	Rule 13 ^{ter}
	11.14	Later Documents	Nucleotide and/or Amino Acid Sequence Listings
Rule 12	Language of the International Application and Translation for the Purposes of International Search and International Publication		13 ^{ter} .1
	12.1	Languages Accepted for the Filing of International Applications	Procedure Before the International Searching Authority
	12.2	Language of Changes in the International Application	13 ^{ter} .2
	12.3	Translation for the Purposes of International Search	Procedure Before the International Preliminary Examining Authority
	12.4	Translation for the Purposes of International Publication	13 ^{ter} .3
			Sequence Listing for Designated Office
		Rule 14	The Transmittal Fee
		14.1	The Transmittal Fee
		Rule 15	The International Filing Fee
Rule 13	Unity of Invention	15.1	The International Filing Fee
	13.1	Requirement	15.2
	13.2	Circumstances in Which the Requirement of Unity of Invention Is to Be Considered	Amount
			15.3
			[Deleted]
			15.4
			Time Limit for Payment; Amount Payable
			15.5
			[Deleted]
			15.6
			Refund

PATENT COOPERATION TREATY

Rule 16	The Search Fee	20.8	Error by the Receiving Office
		20.9	Certified Copy for the Applicant
	16.1	Right to Ask for a Fee	
	16.2	Refund	
	16.3	Partial Refund	Rule 21
			Preparation of Copies
Rule 16 ^{bis}	Extension of Time Limits for Payment of Fees	21.1	Responsibility of the Receiving Office
	16 ^{bis} .1	Invitation by the Receiving Office	Rule 22
	16 ^{bis} .2	Late Payment Fee	Transmittal of the Record Copy and Translation
Rule 17	The Priority Document	22.1	Procedure
	17.1	Obligation to Submit Copy of Earlier National or International Application	22.2
	17.2	Availability of Copies	22.3
			Time Limit Under Article 12(3)
Rule 18	The Applicant	Rule 23	Transmittal of the Search Copy, Translation and Sequence Listing
	18.1	Residence and Nationality	23.1
	18.2	<i>[Deleted]</i>	Procedure
	18.3	Two or More Applicants	Rule 24
	18.4	Information on Requirements Under National Law as to Applicants	Receipt of the Record Copy by the International Bureau
			24.1
			<i>[Deleted]</i>
			24.2
			Notification of Receipt of the Record Copy
Rule 19	The Competent Receiving Office	Rule 25	Receipt of the Search Copy by the International Searching Authority
	19.1	Where to File	25.1
	19.2	Two or More Applicants	Notification of Receipt of the Search Copy
	19.3	Publication of Fact of Delegation of Duties of Receiving Office	Rule 26
	19.4	Transmittal to the International Bureau as Receiving Office	Checking by, and Correcting Before, the Receiving Office of Certain Elements of the International Application
Rule 20	Receipt of the International Application	26.1	Time Limit for Check
	20.1	Date and Number	26.2
	20.2	Receipt on Different Days	Time Limit for Correction
	20.3	Corrected International Application	26.2 ^{bis}
	20.3 ^{bis}	<i>[Deleted]</i>	Checking of Requirements Under Article 14(1)(a)(i) and (ii)
	20.4	Determination Under Article 11(1)	26.3
	20.5	Positive Determination	Checking of Physical Requirements Under Article 14(1)(a)(v)
	20.6	Invitation to Correct	26.3 ^{bis}
	20.7	Negative Determination	Invitation Under Article 14(1)(b) to Correct Defects Under Rule 11
			26.3 ^{ter}
			Invitation to Correct Defects Under Article 3(4)(i)
			26.4
			Procedure

PATENT COOPERATION TREATY

	40.1	Invitation to Pay Additional Fees; Time Limit		Offices
	40.2	Additional Fees		44 ^{bis} .4 Observations on the Translation
	40.3	<i>[Deleted]</i>		
Rule 41		Earlier Search Other Than International Search	Rule 44 ^{ter}	Confidential Nature of Written Opinion, Report, Translation and Observations
	41.1	Obligation to Use Results; Refund of Fee		45.1 Confidential Nature
Rule 42		Time Limit for International Search	Rule 45	Translation of the International Search Report
	42.1	Time Limit for International Search		45.1 Languages
Rule 43		The International Search Report	Rule 46	Amendment of Claims Before the International Bureau
	43.1	Identifications		46.1 Time Limit
	43.2	Dates		46.2 Where to File
	43.3	Classification		46.3 Language of Amendments
	43.4	Language		46.4 Statement
	43.5	Citations		46.5 Form of Amendments
	43.6	Fields Searched	Rule 47	Communication to Designated Offices
	43.7	Remarks Concerning Unity of Invention		47.1 Procedure
	43.8	Authorized Officer		47.2 Copies
	43.9	Additional Matter		47.3 Languages
	43.10	Form		47.4 Express Request Under Article 23(2) Prior to International Publication
Rule 43 ^{bis}		Written Opinion Opinion of the International Searching Authority	Rule 48	International Publication
	43 ^{bis} .1	Written Opinion		48.1 Form
Rule 44		Transmittal of the International Search Report, Written Opinion, Etc.		48.2 Contents
	44.1	Copies of Report or Declaration and Written Opinion		48.3 Languages of Publication
	44.2	Title or Abstract		48.4 Earlier Publication on the Applicant's Request
	44.3	Copies of Cited Documents		48.5 Notification of National Publication
				48.6 Announcing of Certain Facts
Rule 44 ^{bis}		International Preliminary Report on Patentability by the International Searching Authority	Rule 49	Copy, Translation and Fee Under Article 22
	44 ^{bis} .1	Issuance of Report; Transmittal to the Applicant		49.1 Notification
	44 ^{bis} .2	Communication to Designated Offices		49.2 Languages
	44 ^{bis} .3	Translation for Designated		49.3 Statements Under Article 19; Indications Under Rule 13bis.4 Use of National Form
				49.4 Use of National Form

PATENT COOPERATION TREATY

	58 ^{bis} .1	Invitation by the International Preliminary Examining Authority	Rule 63	Minimum Requirements for International Preliminary Examining Authorities
	58 ^{bis} .2	Late Payment Fee		63.1 Definition of Minimum Requirements
Rule 59		The Competent International Preliminary Examining Authority	Rule 64	Prior Art for International Preliminary Examination
	59.1	Demands Under Article 31(2)(a)	64.1	Prior Art
	59.2	Demands Under Article 31(2)(b)	64.2	Non-Written Disclosures
	59.3	Transmittal of Demand to the Competent International Preliminary Examining Authority	64.3	Certain Published Documents
			Rule 65	Inventive Step or Non-Obviousness
Rule 60		Certain Defects in the Demand	65.1	Approach to Prior Art
	60.1	Defects in the Demand	65.2	Relevant Date
	60.2	<i>[Deleted]</i>	Rule 66	Procedure Before the International Preliminary Examining Authority
Rule 61		Notification of the Demand and Elections	66.1	Basis of the International Preliminary Examination
	61.1	Notification to the International Bureau and the Applicant	66.1 ^{bis}	Written Opinion of the International Searching Authority
	61.2	Notification to the Elected Offices	66.2	Written Opinion of the International Preliminary Examining Authority
	61.3	Information for the Applicant	66.3	Formal Response to the International Preliminary Examining Authority
	61.4	Publication in the Gazette	66.4	Additional Opportunity for Submitting Amendments or Arguments
Rule 62		Copy of the Written Opinion by the International Searching Authority and of Amendments Under Article 19 for the International Preliminary Examining Authority	66.4 ^{bis}	Consideration of Amendments and Arguments
	62.1	Copy of Written Opinion by International Searching Authority and of Amendments Made Before the Demand Is Filed	66.5	Amendment
	62.2	Amendments Made After the Demand Is Filed	66.6	Informal Communications with the Applicant
			66.7	Copy and Translation of Earlier Application Whose Priority is Claimed
			66.8	Form of Amendments
			66.9	Language of Amendments
Rule 62 ^{bis}		Translation for the International Preliminary Examining Authority of the Written Opinion of the International Searching Authority	Rule 67	Subject Matter Under Article 34(4)(a)(i)
	62 ^{bis} .1	Translation and Observations	67.1	Definition
			Rule 68	Lack of Unity of Invention (International Preliminary Examination)

