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**AMENDMENTS TO THE REGULATIONS UNDER
THE PATENT COOPERATION TREATY (PCT)
(enter into force on April 2007)**

Rule 2

Interpretation of Certain Words

2.1 to 2.3 [No change]

2.4 "Priority Period"

- (a) Whenever the term "priority period" is used in relation to a priority claim, it shall be construed as meaning the period of 12 months from the filing date of the earlier application whose priority is so claimed. The day of filing of the earlier application shall not be included in that period.
- (b) Rule 80.5 shall apply *mutatis mutandis* to the priority period.

Rule 4

The Request (Contents)

4.1 Mandatory and Optional Contents; Signature

- (a) and (b) [No change]
- (c) The request may contain:
- (i) and (ii) [No change]
- (iii) declarations as provided in Rule 4.17,
- (iv) a statement as provided in Rule 4.18,
- (v) a request for restoration of the right of priority.
- (d) [No change]

4.2 to 4.9 [No change]

4.10 Priority Claim

- (a) Any declaration referred to in Article 8(1) ("priority claim") may claim the priority of one or more earlier applications filed either in or for any country party to the Paris Convention for the Protection of Industrial Property or in or for any Member of the World Trade Organization that is not party to that Convention. Any priority claim shall be made in the request; it shall consist of a statement to the effect that the priority of an earlier application is claimed and shall indicate:
- (i) the date on which the earlier application was filed;
- (ii) to (v) [No change]
- (b) to (d) [No change]

4.11 to 4.17 [No change]

4.18 Statement of Incorporation by Reference

Where the international application, on the date on

which one or more elements referred to in Article 11(I)(iii) were first received by the receiving Office, claims the priority of an earlier application, the request may contain a statement that, where an element of the international application referred to in Article 11(I)(iii)(d) or (e) or a part of the description, claims or drawings referred to in Rule 20.5(a) is not otherwise contained in the international application but is completely contained in the earlier application, that element or part is, subject to confirmation under Rule 20.6, incorporated by reference in the international application for the purposes of Rule 20.6. Such a statement, if not contained in the request on that date, may be added to the request if, and only if, it was otherwise contained in, or submitted with, the international application on that date.

4.19 Additional Matter

- (a) The request shall contain no matter other than that specified in Rules 4.1 to 4.18, provided that the Administrative Instructions may permit, but cannot make mandatory, the inclusion in the request of any additional matter specified in the Administrative Instructions.
- (b) If the request contains matter other than that specified in Rules 4.1 to 4.18 or permitted under paragraph (a) by the Administrative Instructions, the receiving Office shall *ex officio* delete the additional matter.

Rule 11

**Physical Requirements
of the International Application**

11.1 to 11.13 [No change]

11.14 Later Documents

Rules 10, and 11.1 to 11.13, also apply to any document—for example, replacement sheets, amended claims, translations—submitted after the filing of the international application.

Rule 12

**Language of the International Application
and Translation for the Purposes of International
Search and International Publication**

12.1 [No change]

12.1*bis* Language of Elements and Parts Furnished under Rule 20.3, 20.5 or 20.6

An element referred to in Article 11(l)(iii)(d) or (e) furnished by the applicant under Rule 20.3(b) or 20.6(a) and a part of the description, claims or drawings furnished by the applicant under Rule 20.5(b) or 20.6(a) shall be in the language of the international application as filed or, where a translation of the application is required under Rule 12.3(a) or 12.4(a), in both the language of the application as filed and the language of that translation.

12.2 Language of Changes in the International Application

- (a) [No change]
- (b) Any rectification under Rule 91.1 of an obvious mistake in the international application shall be in the language in which the application is filed, provided that:
 - (i) where a translation of the international application is required under Rule 12.3(a), 12.4(a) or 55.2(a), rectifications referred to in Rule 91.1(b)(ii) and (iii) shall be filed in both the language of the application and the language of that translation;
 - (ii) where a translation of the request is required under Rule 26.3ter(c), rectifications referred to in Rule 91.1(b)(i) need only be filed in the language of that translation.
- (c) [No change]

12.3 Translation for the Purposes of International Search

- (a) and (b) [No change]
- (c) Where, by the time the receiving Office sends to the applicant the notification under Rule 20.2(c), the applicant has not furnished a translation required under paragraph (a), the receiving Office shall, preferably together with that notification, invite the applicant:
 - (i) and (ii) [No change]
- (d) and (e) [No change]

12.4 [No change]

Rule 20

International Filing Date

20.1 Determination under Article 11 (1)

- (a) Promptly after receipt of the papers purporting to be an international application, the receiving Office shall determine whether the papers fulfill the requirements of Article 11(1).
- (b) For the purposes of Article 11(l)(iii)(c), it shall be sufficient to indicate the name of the applicant in a way which allows the identity of the applicant to be established even if the name is misspelled, the given names are not fully indicated, or, in the case of legal entities, the indication of the name is abbreviated or incomplete.

- (c) For the purposes of Article 11(l)(ii), it shall be sufficient that the part which appears to be a description (other than any sequence listing part thereof) and the part which appears to be a claim or claims be in a language accepted by the receiving Office under Rule 12.1(a).
- (d) If, on October 1, 1997, paragraph (c) is not compatible with the national law applied by the receiving Office, paragraph (c) shall not apply to that receiving Office for as long as it continues not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by December 31, 1997. The information received shall be promptly published by the International Bureau in the Gazette.

20.2 Positive Determination under Article 11(1)

- (a) If the receiving Office determines that, at the time of receipt of the papers purporting to be an international application, the requirements of Article 11(1) were fulfilled, the receiving Office shall accord as the international filing date the date of receipt of the international application.
- (b) The receiving Office shall stamp the request of the international application which it has accorded an international filing date as prescribed by the Administrative Instructions. The copy whose request has been so stamped shall be the record copy of the international application.
- (c) The receiving Office shall promptly notify the applicant of the international application number and the international filing date. At the same time, it shall send to the International Bureau a copy of the notification sent to the applicant, except where it has already sent, or is sending at the same time, the record copy to the International Bureau under Rule 22.1(a).

20.3 Defects under Article 11(1)

- (a) Where, in determining whether the papers purporting to be an international application fulfill the requirements of Article 11(1), the receiving Office finds that any of the requirements of Article 11(1) are not, or appear not to be, fulfilled, it shall promptly invite the applicant, at the applicant's option:
 - (i) to furnish the required correction under Article 11(2); or
 - (ii) where the requirements concerned are those relating to an element referred to in Article 11(l)(iii)(d) or (e), to confirm in accordance with Rule 20.6(a) that the element is incorporated by reference under Rule 4.18;

and to make observations, if any, within the applicable time limit under Rule 20.7. If that time limit expires after the expiration of 12 months from the filing date of any application whose priority is claimed, the receiving

Office shall call that circumstance to the attention of the applicant.

- (b) Where, following an invitation under paragraph (a) or otherwise:
 - (i) the applicant furnishes to the receiving Office the required correction under Article 11(2) after the date of receipt of the purported international application but on a later date falling within the applicable time limit under Rule 20.7, the receiving Office shall accord that later date as the international filing date and proceed as provided in Rule 20.2(b) and (c);
 - (ii) an element referred to in Article 11(l)(iii)(d) or (e) is, under Rule 20.6(b), considered to have been contained in the international application on the date on which one or more elements referred to in Article 11(l)(iii) were first received by the receiving Office, the receiving Office shall accord as the international filing date the date on which all of the requirements of Article 11(1) are fulfilled and proceed as provided in Rule 20.2(b) and (c).
- (c) If the receiving Office later discovers, or on the basis of the applicant's reply realizes, that it has erred in issuing an invitation under paragraph (a) since the requirements of Article 11(1) were fulfilled when the papers were received, it shall proceed as provided in Rule 20.2.

20.4 Negative Determination under Article 11(1)

If the receiving Office does not receive, within the applicable time limit under Rule 20.7, a correction or confirmation referred to in Rule 20.3(a), or if a correction or confirmation has been received but the application still does not fulfill the requirements of Article 11 (1), the receiving Office shall:

- (i) promptly notify the applicant that the application is not and will not be treated as an international application and shall indicate the reasons therefor;
- (ii) notify the International Bureau that the number it has marked on the papers will not be used as an international application number;
- (iii) keep the papers constituting the purported international application and any correspondence relating thereto as provided in Rule 93.1; and
- (iv) send a copy of the said papers to the International Bureau where, pursuant to a request by the applicant under Article 25(1), the International Bureau needs such a copy and specially asks for it.

20.5 Missing Parts

- (a) Where, in determining whether the papers purporting to be an international application fulfill the requirements of Article 11(1), the receiving Office finds that a part of the

description, claims or drawings is or appears to be missing, including the case where all of the drawings are or appear to be missing but not including the case where an entire element referred to in Article 11(l)(iii)(d) or (e) is or appears to be missing, it shall promptly invite the applicant, at the applicant's option:

- (i) to complete the purported international application by furnishing the missing part; or
- (ii) to confirm, in accordance with Rule 20.6(a), that the part was incorporated by reference under Rule 4.18;

and to make observations, if any, within the applicable time limit under Rule 20.7. If that time limit expires after the expiration of 12 months from the filing date of any application whose priority is claimed, the receiving Office shall call that circumstance to the attention of the applicant.

- (b) Where, following an invitation under paragraph (a) or otherwise, the applicant furnishes to the receiving Office, on or before the date on which all of the requirements of Article 11(1) are fulfilled but within the applicable time limit under Rule 20.7, a missing part referred to in paragraph (a) so as to complete the international application, that part shall be included in the application and the receiving Office shall accord as the international filing date the date on which all of the requirements of Article 11(1) are fulfilled and proceed as provided in Rule 20.2(b) and (c).
- (c) Where, following an invitation under paragraph (a) or otherwise, the applicant furnishes to the receiving Office, after the date on which all of the requirements of Article 11(1) were fulfilled but within the applicable time limit under Rule 20.7, a missing part referred to in paragraph (a) so as to complete the international application, that part shall be included in the application, and the receiving Office shall correct the international filing date to the date on which the receiving Office received that part, notify the applicant accordingly and proceed as provided for in the Administrative Instructions.
- (d) Where, following an invitation under paragraph (a) or otherwise, a part referred to in paragraph (a) is, under Rule 20.6(b), considered to have been contained in the purported international application on the date on which one or more elements referred to in Article 11(l)(iii) were first received by the receiving Office, the receiving Office shall accord as the international filing date the date on which all of the requirements of Article 11(1) are fulfilled and proceed as provided in Rule 20.2(b) and (c).
- (e) Where the international filing date has been corrected under paragraph (c), the applicant may, in a notice submitted to the receiving

Office within one month from the date of the notification under paragraph (c), request that the missing part concerned be disregarded, in which case the missing part shall be considered not to have been furnished and the correction of the international filing date under that paragraph shall be considered not to have been made, and the receiving Office shall proceed as provided for in the Administrative Instructions.

20.6 Confirmation of Incorporation by Reference of Elements and Parts

- (a) The applicant may submit to the receiving Office, within the applicable time limit under Rule 20.7, a written notice confirming that an element or part is incorporated by reference in the international application under Rule 4.18, accompanied by:
- (i) a sheet or sheets embodying the entire element as contained in the earlier application or embodying the part concerned;
 - (ii) where the applicant has not already complied with Rule 17.1(a), (b) or (b-bis) in relation to the priority document, a copy of the earlier application as filed;
 - (iii) where the earlier application is not in the language in which the international application is filed, a translation of the earlier application into that language or, where a translation of the international application is required under Rule 12.3(a) or 12.4(a), a translation of the earlier application into both the language in which the international application is filed and the language of that translation; and
 - (iv) in the case of a part of the description, claims or drawings, an indication as to where that part is contained in the earlier application and, where applicable, in any translation referred to in item (iii).
- (b) Where the receiving Office finds that the requirements of Rule 4.18 and paragraph (a) have been complied with and that the element or part referred to in paragraph (a) is completely contained in the earlier application concerned, that element or part shall be considered to have been contained in the purported international application on the date on which one or more elements referred to in Article 11(l)(iii) were first received by the receiving Office.
- (c) Where the receiving Office finds that a requirement under Rule 4.18 or paragraph (a) has not been complied with or that the element or part referred to in paragraph (a) is not completely contained in the earlier application concerned, the receiving Office shall proceed as provided for in Rule 20.3(b)(i), 20.5(b) or 20.5(c), as the case may be.

20.7 Time Limit

- (a) The applicable time limit referred to in Rules 20.3(a) and (b), 20.4, 20.5(a), (b) and (c), and 20.6(a) shall be:
- (i) where an invitation under Rule 20.3(a) or 20.5(a), as applicable, was sent to the applicant, two months from the date of the invitation;
 - (ii) where no such invitation was sent to the applicant, two months from the date on which one or more elements referred to in Article 11(l)(iii) were first received by the receiving Office.
- (b) Where a correction under Article 11(2) or a notice under Rule 20.6(a) confirming the incorporation by reference of an element referred to in Article 11(l)(iii)(d) or (e) is received by the receiving Office after the expiration of the applicable time limit under paragraph (a) but before that Office sends a notification to the applicant under Rule 20.4(i), that correction or notice shall be considered to have been received within that time limit.

20.8 Incompatibility with National Laws

- (a) If, on October 5, 2005, any of Rules 20.3(a)(ii) and (b)(ii), 20.5(a)(ii) and (d), and 20.6 are not compatible with the national law applied by the receiving Office, the Rules concerned shall not apply to an international application filed with that receiving Office for as long as they continue not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by April 5, 2006. The information received shall be promptly published by the International Bureau in the Gazette.
- (b) If, on October 5, 2005, any of Rules 20.3(a)(ii) and (b)(ii), 20.5(a)(ii) and (d), and 20.6 are not compatible with the national law applied by the designated Office, the Rules concerned shall not apply in respect of that Office in relation to an international application in respect of which the acts referred to in Article 22 have been performed before that Office for as long as they continue not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by April 5, 2006. The information received shall be promptly published by the International Bureau in the Gazette.

Rule 21

Preparation of Copies

21.1 [No change]

21.2 Certified Copy for the Applicant

Against payment of a fee, the receiving Office shall furnish to the applicant, on request, certified copies of the international application as filed and of any corrections thereto.

Rule 22**Transmittal of the Record Copy and Translation**

22.1 Procedure

- (a) [No change]
- (b) If the International Bureau has received a copy of the notification under Rule 20.2(c) but is not, by the expiration of 13 months from the priority date, in possession of the record copy, it shall remind the receiving Office that it should transmit the record copy to the International Bureau promptly.
- (c) If the International Bureau has received a copy of the notification under Rule 20.2(c) but is not, by the expiration of 14 months from the priority date, in possession of the record copy, it shall notify the applicant and the receiving Office accordingly.
- (d) to (h) [No change]

22.2 [Remains deleted]

22.3 [No change]

Rule 26**Checking by, and Correcting before, the Receiving Office of Certain Elements of the International Application**

26.1 Invitation under Article 14(l)(b) to Correct

The receiving Office shall issue the invitation to correct provided for in Article 14(l)(b) as soon as possible, preferably within one month from the receipt of the international application. In the invitation, the receiving Office shall invite the applicant to furnish the required correction, and give the applicant the opportunity to make observations, within the time limit under Rule 26.2.

26.2 Time Limit for Correction

The time limit referred to in Rule 26.1 shall be two months from the date of the invitation to correct. It may be extended by the receiving Office at any time before a decision is taken.

26.2bis to 26.3bis [No change]

26.3ter Invitation to Correct Defects under Article 3(4)(i)

- (a) Where the abstract or any text matter of the drawings is filed in a language which is different from the language of the description and the claims, the receiving Office shall, unless

(i) and (ii) [No change]

invite the applicant to furnish a translation of the abstract or the text matter of the drawings into the language in which the international application is to be published. Rules 26.1, 26.2, 26.3, 26.3bis, 26.5 and 29.1 shall apply *mutatis mutandis*.

- (b) [No change]

- (c) Where the request does not comply with Rule 12.1(c), the receiving Office shall invite the

applicant to file a translation so as to comply with that Rule. Rules 3, 26.1, 26.2, 26.5 and 29.1 shall apply *mutatis mutandis*.

- (d) [No change]

26.4 [No change]

26.5 Decision of the Receiving Office

The receiving Office shall decide whether the applicant has submitted the correction within the applicable time limit under Rule 26.2, and, if the correction has been submitted within that time limit, whether the international application so corrected is or is not to be considered withdrawn, provided that no international application shall be considered withdrawn for lack of compliance with the physical requirements referred to in Rule 11 if it complies with those requirements to the extent necessary for the purpose of reasonably uniform international publication.

26.6 [Deleted]

Rule 26bis**Correction or Addition of Priority Claim**

26bis.1 Correction or Addition of Priority Claim

- (a) The applicant may correct a priority claim or add a priority claim to the request by a notice submitted to the receiving Office or the International Bureau within a time limit of 16 months from the priority date or, where the correction or addition would cause a change in the priority date, 16 months from the priority date as so changed, whichever 16-month period expires first, provided that such a may be submitted until the expiration of four months from the international filing date. The correction of a priority claim may include the addition of any indication referred to in Rule 4.10.
- (b) and (c) [No change]

26bis.2 Defects in Priority Claims

- (a) Where the receiving Office or, if the receiving Office fails to do so, the International Bureau, finds in relation to a priority claim:
 - (i) that the international application has an international filing date which is later than the date on which the priority period expired and that a request for restoration of the right of priority under Rule 26bis.3 has not been submitted;
 - (ii) that the priority claim does not comply with the requirements of Rule 4.10; or
 - (iii) that any indication in the priority claim is inconsistent with the corresponding indication appearing in the priority document;

the receiving Office or the International Bureau, as the case may be, shall invite the applicant to correct the priority claim. In the case referred to in item (i), where the international filing date is within two months from the date on which the priority period expired, the receiving Office or the International Bureau, as the

case may be, shall also notify the applicant of the possibility of submitting a request for the restoration of the right of priority in accordance with Rule 26bis.3, unless the receiving Office has notified the International Bureau under Rule 26bis.3(j) of the incompatibility of Rule 26bis.3(a) to (i) with the national law applied by that Office.

- (b) If the applicant does not, before the expiration of the time limit under Rule 26bis.1(a), submit a notice correcting the priority claim, that priority claim shall, subject to paragraph (c), for the purposes of the procedure under the Treaty, be considered not to have been made ("considered void") and the receiving Office or the International Bureau, as the case may be, shall so declare and shall inform the applicant accordingly. Any notice correcting the priority claim which is received before the receiving Office or the International Bureau, as the case may be, so declares and not later than one month after the expiration of that time limit shall be considered to have been received before the expiration of that time limit.
- (c) A priority claim shall not be considered void only because:
 - (i) the indication of the number of the earlier application referred to in Rule 4.10(a)(ii) is missing;
 - (ii) an indication in the priority claim is inconsistent with the corresponding indication appearing in the priority document; or
 - (iii) the international application has an international filing date which is later than the date on which the priority period expired, provided that the international filing date is within the period of two months from that date.
- (d) Where the receiving Office or the International Bureau has made a declaration under paragraph (b) or where the priority claim has not been considered void only because paragraph (c) applies, the International Bureau shall publish, together with the international application, information concerning the priority claim as prescribed by the Administrative Instructions, as well as any information submitted by the applicant concerning such priority claim which is received by the International Bureau prior to the completion of the technical preparations for international publication. Such information shall be included in the communication under Article 20 where the international application is not published by virtue of Article 64(3).
- (e) Where the applicant wishes to correct or add a priority claim but the time limit under Rule 26bis.1 has expired, the applicant may, prior to the expiration of 30 months from the priority date and subject to the payment of a special fee whose amount shall be fixed in the

Administrative Instructions, request the International Bureau to publish information concerning the matter, and the International Bureau shall promptly publish such information.

26bis.3 Restoration of Right of Priority by Receiving Office

- (a) Where the international application has an international filing date which is later than the date on which the priority period expired but within the period of two months from that date, the receiving Office shall, on the request of the applicant, and subject to paragraphs (b) to (g) of this Rule, restore the right of priority if the Office finds that a criterion applied by it ("criterion for restoration") is satisfied, namely, that the failure to file the international application within the priority period:
 - (i) occurred in spite of due care required by the circumstances having been taken; or
 - (ii) was unintentional.

Each receiving Office shall apply at least one of those criteria and may apply both of them.

- (b) A request under paragraph (a) shall:
 - (i) be filed with the receiving Office within the time limit applicable under paragraph (e);
 - (ii) state the reasons for the failure to file the international application within the priority period; and
 - (iii) preferably be accompanied by any declaration or other evidence required under paragraph (f).
- (c) Where a priority claim in respect of the earlier application is not contained in the international application, the applicant shall submit, within the time limit applicable under paragraph (e), a notice under Rule 26bis.1(a) adding the priority claim.
- (d) The submission of a request under paragraph (a) may be subjected by the receiving Office to the payment to it, for its own benefit, of a fee for requesting restoration, payable within the time limit applicable under paragraph (e). The amount of that fee, if any, shall be fixed by the receiving Office.
- (e) The time limit referred to in paragraphs (b)(i), (c) and (d) shall be two months from the date on which the priority period expired, provided that, where the applicant makes a request for early publication under Article 21(2)(b), any request under paragraph (a) or any notice referred to in paragraph (c) submitted, or any fee referred to in paragraph (d) paid, after the technical preparations for international publication have been completed shall be considered as not having been submitted or paid in time.
- (f) The receiving Office may require that a declaration or other evidence in support of the statement of reasons referred to in paragraph

(b)(iii) be filed with it within a time limit which shall be reasonable under the circumstances. The applicant may furnish to the International Bureau a copy of any such declaration or other evidence filed with the receiving Office, in which case the International Bureau shall include such copy in its files.

- (g) The receiving Office shall not refuse, totally or in part, a request under paragraph (a) without giving the applicant the opportunity to make observations on the intended refusal within a time limit which shall be reasonable under the circumstances. Such notice of intended refusal by the receiving Office may be sent to the applicant together with any invitation to file a declaration or other evidence under paragraph (f).
- (h) The receiving Office shall promptly:
- (i) notify the International Bureau of the receipt of a request under paragraph (a);
 - (ii) make a decision upon the request;
 - (iii) notify the applicant and the International Bureau of its decision and the criterion for restoration upon which the decision was based.
- (i) Each receiving Office shall inform the International Bureau of which of the criteria for restoration it applies and of any subsequent changes in that respect. The International Bureau shall promptly publish such information in the Gazette.
- (j) If, on October 5, 2005, paragraphs (a) to (i) are not compatible with the national law applied by the receiving Office, those paragraphs shall not apply in respect of that Office for as long as they continue not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by April 5, 2006. The information received shall be promptly published by the International Bureau in the Gazette.

Rule 34

Minimum Documentation

34.1 Definition

- (a) and (b) [No change]
- (c) Subject to paragraphs (d) and (e), the "national patent documents" shall be the following:
- (i) [No change]
 - (ii) the patents issued by the Federal Republic of Germany, the Republic of Korea and the Russian Federation,
 - (iii) to (vi) [No change]
- (d) [No change]
- (e) Any International Searching Authority whose official language, or one of whose official languages, is not Japanese, Korean, Russian or Spanish is entitled not to include in its documentation those patent documents of Japan, the Republic of Korea, the Russian Federation and the former Soviet Union as

well as those patent documents in the Spanish language, respectively, for which no abstracts in the English language are generally available. English abstracts becoming generally available after the date of entry into force of these Regulations shall require the inclusion of the patent documents to which the abstracts refer no later than six months after such abstracts become generally available. In case of the interruption of abstracting services in English in technical fields in which English abstracts were formerly generally available, the Assembly shall take appropriate measures to provide for the prompt restoration of such services in the said fields.

(f) [No change]

Rule 38

Missing or Defective Abstract

38.1 [No change]

38.2 Establishment of Abstract

If the international application does not contain an abstract and the International Searching Authority has not received a notification from the receiving Office to the effect that the applicant has been invited to furnish an abstract, or if the said Authority finds that the abstract does not comply with Rule 8, it shall itself establish an abstract. Such abstract shall be established in the language in which the international application is to be published or, if a translation into another language was transmitted under Rule 23.1(b) and the International Searching Authority so wishes, in the language of that translation.

38.3 Modification of Abstract

The applicant may, until the expiration of one month from the date of mailing of the international search report, submit to the International Searching Authority:

- (i) proposed modifications of the abstract; or
- (ii) where the abstract has been established by the Authority, proposed modifications of, or comments on, that abstract, or both modifications and comments;

and the Authority shall decide whether to modify the abstract accordingly. Where the Authority modifies the abstract, it shall notify the modification to the International Bureau.

Rule 43

The International Search Report

43.1 to 43.6 [No change]

43.6bis Consideration of Rectifications of Obvious Mistakes

- (a) A rectification of an obvious mistake that is authorized under Rule 91.1 shall, subject to paragraph (b), be taken into account by the International Searching Authority for the

purposes of the international search and the international search report shall so indicate.

- (b) A rectification of an obvious mistake need not be taken into account by the International Searching Authority for the purposes of the international search if it is authorized by or notified to that Authority, as applicable, after it has begun to draw up the international search report, in which case the report shall, if possible, so indicate, failing which the International Searching Authority shall notify the International Bureau accordingly and the International Bureau shall proceed as provided for in the Administrative Instructions.

43.7 to 43.10 [No change]

Rule 43bis

Written Opinion of the International Searching Authority

43bis.1 Written Opinion

- (a) [No change]
- (b) For the purposes of establishing the written opinion, Articles 33(2) to (6) and 35(2) and (3) and Rules 43.4, 43.6bis, 64, 65, 66.1(e), 66.7, 67, 70.2(b) and (d), 70.3, 70.4(ii), 70.5(a), 70.6 to 70.10, 70.12, 70.14 and 70.15(a) shall apply *mutatis mutandis*.
- (c) [No change]

Rule 48

International Publication

48.1 [No change]

48.2 Contents

- (a) The publication of the international application shall contain:
- (i) to (vi) [No change]
- (vii) where the request for publication under Rule 91.3(d) was received by the International Bureau before the completion of the technical preparations for international publication, any request for rectification of an obvious mistake, any reasons and any comments referred to in Rule 91.3(d);
- (viii) [No change]
- (ix) any information concerning a priority claim referred to in Rule 26bis.2(d);
- (x) any declaration referred to in Rule 4.17, and any correction thereof under Rule 26ter.1, which was received by the International Bureau before the expiration of the time limit under Rule 26ter.1;
- (xi) any information concerning a request under Rule 26bis.3 for restoration of the right of priority and the decision of the receiving Office upon such request, including information as to the criterion

for restoration upon which the decision was based.

- (b) Subject to paragraph (c), the front page shall include:

- (i) data taken from the request sheet and such other data as are prescribed by the Administrative Instructions;
- (ii) a figure or figures where the international application contains drawings, unless Rule 8.2(b) applies;
- (iii) the abstract; if the abstract is both in English and in another language, the English text shall appear first;
- (iv) where applicable, an indication that the request contains a declaration referred to in Rule 4.17 which was received by the International Bureau before the expiration of the time limit under Rule 26ter.1;
- (v) where the international filing date has been accorded by the receiving Office under Rule 20.3(b)(ii) or 20.5(d) on the basis of the incorporation by reference under Rules 4.18 and 20.6 of an element or part, an indication to that effect, together with an indication as to whether the applicant, for the purposes of Rule 20.6(a)(ii), relied on compliance with Rule 17.1(a), (b) or (b-bis) in relation to the priority document or on a separately submitted copy of the earlier application concerned;
- (vi) where applicable, an indication that the published international application contains information under Rule 26bis.2(d);
- (vii) where applicable, an indication that the published international application contains information concerning a request under Rule 26bis.3 for restoration of the right of priority and the decision of the receiving Office upon such request;
- (viii) where applicable, an indication that the applicant has, under Rule 26bis.3(f), furnished copies of any declaration or other evidence to the International Bureau.

(c) to (h) [No change]

- (i) If the authorization of a rectification of an obvious mistake in the international application referred to in Rule 91.1 is received by or, where applicable, given by the International Bureau after completion of the technical preparations for international publication, a statement reflecting all the rectifications shall be published, together with the sheets containing the rectifications, or the replacement sheets and the letter furnished under Rule 91.2, as the case may be, and the front page shall be republished.
- (j) If, at the time of completion of the technical

preparations for international publication, a request under Rule 26bis.3 for restoration of the right of priority is still pending, the published international application shall contain, in place of the decision by the receiving Office upon that request, an indication to the effect that such decision was not available and that the decision, when it becomes available, will be separately published.

- (k) If a request for publication under Rule 91.3(d) was received by the International Bureau after the completion of the technical preparations for international publication, the request for rectification, any reasons and any comments referred to in that Rule shall be promptly published after the receipt of such request for publication, and the front page shall be republished.

48.3 to 48.6 [No change]

Rule 49ter

Effect of Restoration of Right of Priority by Receiving Office; Restoration of Right of Priority by Designated Office

49ter.1 Effect of Restoration of Right of Priority by Receiving Office

- (a) Where the receiving Office has restored a right of priority under Rule 26bis.3 based on a finding by it that the failure to file the international application within the priority period occurred in spite of due care required by the circumstances having been taken, that restoration shall, subject to paragraph (c), be effective in each designated State.
- (b) Where the receiving Office has restored a right of priority under Rule 26bis.3 based on a finding by it that the failure to file the international application within the priority period was unintentional, that restoration shall, subject to paragraph (c), be effective in any designated State whose applicable national law provides for restoration of the right of priority based on that criterion or on a criterion which, from the viewpoint of applicants, is more favorable than that criterion.
- (c) A decision by the receiving Office to restore a right of priority under Rule 26bis.3 shall not be effective in a designated State where the designated Office, a court or any other competent organ of or acting for that designated State finds that a requirement under Rule 26bis.3(a), (b)(i) or (c) was not complied with, taking into account the reasons stated in the request submitted to the receiving Office under Rule 26bis.3(a) and any declaration or other evidence filed with the receiving Office under Rule 26bis.3(b)(iii).
- (d) A designated Office shall not review the

decision of the receiving Office unless it may reasonably doubt that a requirement referred to in paragraph (c) was complied with, in which case the designated Office shall notify the applicant accordingly, indicating the reasons for that doubt and giving the applicant an opportunity to make observations within a reasonable time limit.

- (e) No designated State shall be bound by a decision of the receiving Office refusing a request under Rule 26bis.3 for restoration of the right of priority.
- (f) Where the receiving Office has refused a request for the restoration of the right of priority, any designated Office may consider that request to be a request for restoration submitted to that designated Office under Rule 49ter.2(a) within the time limit under that Rule.
- (g) If, on October 5, 2005, paragraphs (a) to (d) are not compatible with the national law applied by the designated Office, those paragraphs shall not apply in respect of that Office for as long as they continue not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by April 5, 2006. The information received shall be promptly published by the International Bureau in the Gazette.

49ter.2 Restoration of Right of Priority by Designated Office

- (a) Where the international application claims the priority of an earlier application and has an international filing date which is later than the date on which the priority period expired but within the period of two months from that date, the designated Office shall, on the request of the applicant in accordance with paragraph (b), restore the right of priority if the Office finds that a criterion applied by it ("criterion for restoration") is satisfied, namely, that the failure to file the international application within the priority period:
- (i) occurred in spite of due care required by the circumstances having been taken; or
 - (ii) was unintentional.

Each designated Office shall apply at least one of those criteria and may apply both of them.

- (b) A request under paragraph (a) shall:
- (i) be filed with the designated Office within a time limit of one month from the applicable time limit under Article 22;
 - (ii) state the reasons for the failure to file the international application within the priority period and preferably be accompanied by any declaration or other evidence required under paragraph (c); and

- (iii) be accompanied by any fee for requesting restoration required under paragraph (d).
- (c) The designated Office may require that a declaration or other evidence in support of the statement of reasons referred to in paragraph (b)(ii) be filed with it within a time limit which shall be reasonable under the circumstances.
- (d) The submission of a request under paragraph (a) may be subjected by the designated Office to the payment to it, for its own benefit, of a fee for requesting restoration.
- (e) The designated Office shall not refuse, totally or in part, a request under paragraph (a) without giving the applicant the opportunity to make observations on the intended refusal within a time limit which shall be reasonable under the circumstances. Such notice of intended refusal may be sent by the designated Office to the applicant together with any invitation to file a declaration or other evidence under paragraph (c).
- (f) Where the national law applicable by the designated Office provides, in respect of the restoration of the right of priority, for requirements which, from the viewpoint of applicants, are more favorable than the requirements provided for under paragraphs (a) and (b), the designated Office may, when determining the right of priority, apply the requirements under the applicable national law instead of the requirements under those paragraphs.
- (g) Each designated Office shall inform the International Bureau of which of the criteria for restoration it applies, of the requirements, where applicable, of the national law applicable in accordance with paragraph (f), and of any subsequent changes in that respect. The International Bureau shall promptly publish such information in the Gazette.
- (h) If, on October 5, 2005, paragraphs (a) to (g) are not compatible with the national law applied by the designated Office, those paragraphs shall not apply in respect of that Office for as long as they continue not to be compatible with that law, provided that the said Office informs the International Bureau accordingly by April 5, 2006. The information received shall be promptly published by the International Bureau in the Gazette.

Rule 51

Review by Designated Offices

51.1 Time Limit for Presenting the Request to Send Copies

The time limit referred to in Article 25(l)(c) shall be two months computed from the date of the notification sent to the applicant under Rule 20.4(i), 24.2(c) or 29.1(ii).

51.2 Copy of the Notification

Where the applicant, after having received a negative determination under Article 11(1), requests the International Bureau, under Article 25(1), to send copies of the file of the purported international application to any of the named Offices he has attempted to designate, he shall attach to his request a copy of the notification referred to in Rule 20.4(i).

51.3 [No change]

Rule 51bis

Certain National Requirements Allowed under Article 27

51bis.1 Certain National Requirements Allowed

- (a) to (d) [No change]
- (e) The national law applicable by the designated Office may, in accordance with Article 27, require the applicant to furnish a translation of the priority document, provided that such a translation may only be required:
 - (i) where the validity of the priority claim is relevant to the determination of whether the invention concerned is patentable; or
 - (ii) where the international filing date has been accorded by the receiving Office under Rule 20.3(b)(ii) or 20.5(d) on the basis of the incorporation by reference under Rules 4.18 and 20.6 of an element or part, for the purposes of determining under Rule 82ter.1(b) whether that element or part is completely contained in the priority document concerned, in which case the national law applicable by the designated Office may also require the applicant to furnish, in the case of a part of the description, claims or drawings, an indication as to where that part is contained in the translation of the priority document.
- (f) [No change]

51bis.2 and 51bis.3 [No change]

Rule 55

Languages (International Preliminary Examination)

55.1 [No change]

55.2 Translation of International Application

- (a) [No change]
- (a-bis) A translation of the international application into a language referred to in paragraph (a) shall include any element referred to in Article 11(l)(iii)(d) or (e) furnished by the applicant under Rule 20.3(b) or 20.6(a) and any part of the description, claims or drawings furnished by the applicant under Rule 20.5(b) or 20.6(a).
- (b) [No change]
- (c) If the requirements of paragraphs (a) and (a-bis) are not complied with and paragraph (b) does not apply, the International

Preliminary Examining Authority shall invite the applicant to furnish the required translation within a time limit which shall be reasonable under the circumstances. That time limit shall not be less than one month from the date of the invitation. It may be extended by the International Preliminary Examining Authority at any time before a decision is taken.

- (d) If the applicant complies with the invitation within the time limit under paragraph (c), the said requirements shall be considered to have been complied with. If the applicant fails to do so, the demand shall be considered not to have been submitted and the International Preliminary Examining Authority shall so declare.

55.3 [No change]

Rule 64

Prior Art for International Preliminary Examination

64.1 Prior Art

- (a) [No change]
- (b) For the purposes of paragraph (a), the relevant date shall be:
- (i) subject to items (ii) and (iii), the international filing date of the international application under international preliminary examination;
 - (ii) where the international application under international preliminary examination claims the priority of an earlier application and has an international filing date which is within the priority period, the filing date of such earlier application, unless the International Preliminary Examining Authority considers that the priority claim is not valid;
 - (iii) where the international application under international preliminary examination claims the priority of an earlier application and has an international filing date which is later than the date on which the priority period expired but within the period of two months from that date, the filing date of such earlier application, unless the International Preliminary Examining Authority considers that the priority claim is not valid for reasons other than the fact that the international application has an international filing date which is later than the date on which the priority period expired.

64.2 and 64.3 [No change]

Rule 66

Procedure before the International Preliminary Examining Authority

66.1 Basis of the International Preliminary Examination

(a) to (d) [No change]

- (d-bis) A rectification of an obvious mistake that is authorized under Rule 91.1 shall, subject to Rule 66.4bis, be taken into account by the International Preliminary Examining Authority for the purposes of the international preliminary examination.

(e) [No change]

66.1 to 66.4 [No change]

66.4bis Consideration of Amendments, Arguments and Rectifications of Obvious Mistakes

Amendments, arguments and rectifications of obvious mistakes need not be taken into account by the International Preliminary Examining Authority for the purposes of a written opinion or the international preliminary examination report if they are received by, authorized by or notified to that Authority, as applicable, after it has begun to draw up that opinion or report.

66.5 Amendment

Any change, other than the rectification of an obvious mistake, in the claims, the description, or the drawings, including cancellation of claims, omission of passages in the description, or omission of certain drawings, shall be considered an amendment.

66.6 to 66.9 [No change]

Rule 70

International Preliminary Report on Patentability by the International Preliminary Examining Authority (International Preliminary Examination Report)

70.1 [No change]

70.2 Basis of the Report

(a) to (d) [No change]

- (e) If a rectification of an obvious mistake is taken into account under Rule 66.1, the report shall so indicate. If a rectification of an obvious mistake is not taken into account pursuant to Rule 66.4bis, the report shall, if possible, so indicate, failing which the International Preliminary Examining Authority shall notify the International Bureau accordingly and the International Bureau shall proceed as provided for in the Administrative Instructions.

70.3 to 70.15 [No change]

70.16 Annexes to the Report

- (a) Each replacement sheet under Rule 66.8(a) or (b) and each replacement sheet containing amendments under Article 19 shall, unless

superseded by later replacement sheets or amendments resulting in the cancellation of entire sheets under Rule 66.8(b), be annexed to the report. Replacement sheets containing amendments under Article 19 which have been considered as reversed by an amendment under Article 34 and letters under Rule 66.8 shall not be annexed.

(b) [No change]

70.17 [No change]

Rule 76

Translation of Priority Document; Application of Certain Rules to Procedures before Elected Offices

76.1, 76.2 and 76.3 [Remain deleted]

76.4 [No change]

76.5 Application of Certain Rules to Procedures before Elected Offices

Rules 13^{ter}.3, 22.1(g), 47.1, 49, 49^{bis}, 49^{ter} and 51^{bis} shall apply, provided that:

(i) to (v) [No change]

Rule 82^{ter}

Rectification of Errors Made by the Receiving Office or by the International Bureau

82^{ter}. 1 Errors concerning the International Filing Date and the Priority Claim

(a) If the applicant proves to the satisfaction of any designated or elected Office that the international filing date is incorrect due to an error made by the receiving Office or that the priority claim has been erroneously considered void by the receiving Office or the International Bureau, and if the error is an error such that, had it been made by the designated or elected Office itself, that Office would rectify it under the national law or national practice, the said Office shall rectify the error and shall treat the international application as if it had been accorded the rectified international filing date or as if the priority claim had not been considered void.

(b) Where the international filing date has been accorded by the receiving Office under Rule 20.3(b)(ii) or 20.5(d) on the basis of the incorporation by reference under Rules 4.18 and 20.6 of an element or part but the designated or elected Office finds that:

(i) the applicant has not complied with Rule 17.1(a), (b) or (b-bis) in relation to the priority document;

(ii) a requirement under Rule 4.18, 20.6(a)(i) or 51^{bis}.1(e)(ii) has not been complied with; or

(iii) the element or part is not completely

contained in the priority document concerned;

the designated or elected Office may, subject to paragraph (c), treat the international application as if the international filing date had been accorded under Rule 20.3(b)(i) or 20.5(b), or corrected under Rule 20.5(c), as applicable, provided that Rule 17.1(c) shall apply *mutatis mutandis*.

(c) The designated or elected Office shall not treat the international application under paragraph (b) as if the international filing date had been accorded under Rule 20.3(b)(i) or 20.5(b), or corrected under Rule 20.5(c), without giving the applicant the opportunity to make observations on the intended treatment, or to make a request under paragraph (d), within a time limit which shall be reasonable under the circumstances.

(d) Where the designated or elected Office, in accordance with paragraph (c), has notified the applicant that it intends to treat the international application as if the international filing date had been corrected under Rule 20.5(c), the applicant may, in a notice submitted to that Office within the time limit referred to in paragraph (c), request that the missing part concerned be disregarded for the purposes of national processing before that Office, in which case that part shall be considered not to have been furnished and that Office shall not treat the international application as if the international filing date had been corrected.

Rule 91

Rectification of Obvious Mistakes in the International Application and Other Documents

91.1 Rectification of Obvious Mistakes

(a) An obvious mistake in the international application or another document submitted by the applicant may be rectified in accordance with this Rule if the applicant so requests.

(b) The rectification of a mistake shall be subject to authorization by the "competent authority", that is to say:

(i) in the case of a mistake in the request part of the international application or in a correction thereof—by the receiving Office;

(ii) in the case of a mistake in the description, claims or drawings or in a correction thereof, unless the International Preliminary Examining Authority is competent under item (iii)—by the International Searching Authority;

(iii) in the case of a mistake in the description, claims or drawings or in a correction thereof, or in an amendment under Article 19 or 34, where a demand for

international preliminary examination has been made and has not been withdrawn and the date on which international preliminary examination shall start in accordance with Rule 69.1 has passed—by the International Preliminary Examining Authority;

- (iv) in the case of a mistake in a document not referred to in items (i) to (iii) submitted to the receiving Office, the International Searching Authority, the International Preliminary Examining Authority or the International Bureau, other than a mistake in the abstract or in an amendment under Article 19—by that Office, Authority or Bureau, as the case may be.
- (c) The competent authority shall authorize the rectification under this Rule of a mistake if, and only if, it is obvious to the competent authority that, as at the applicable date under paragraph (f), something else was intended than what appears in the document concerned and that nothing else could have been intended than the proposed rectification.
- (d) In the case of a mistake in the description, claims or drawings or in a correction or amendment thereof, the competent authority shall, for the purposes of paragraph (c), only take into account the contents of the description, claims and drawings and, where applicable, the correction or amendment concerned.
- (e) In the case of a mistake in the request part of the international application or a correction thereof, or in a document referred to in paragraph (b)(iv), the competent authority shall, for the purposes of paragraph (c), only take into account the contents of the international application itself and, where applicable, the correction concerned, or the document referred to in paragraph (b)(iv), together with any other document submitted with the request, correction or document, as the case may be, any priority document in respect of the international application that is available to the authority in accordance with the Administrative Instructions, and any other document contained in the authority's international application file at the applicable date under paragraph (f).
- (f) The applicable date for the purposes of paragraphs (c) and (e) shall be:
 - (i) in the case of a mistake in a part of the international application as filed—the international filing date;
 - (ii) in the case of a mistake in a document other than the international application as filed, including a mistake in a correction or an amendment of the international application—the date on which the document was submitted.

(g) A mistake shall not be rectifiable under this Rule if:

- (i) the mistake lies in the omission of one or more entire elements of the international application referred to in Article 3(2) or one or more entire sheets of the international application;
- (ii) the mistake is in the abstract;
- (iii) the mistake is in an amendment under Article 19, unless the International Preliminary Examining Authority is competent to authorize the rectification of such mistake under paragraph (b)(iii); or
- (iv) the mistake is in a priority claim or in a notice correcting or adding a priority claim under Rule 26bis.1(a), where the rectification of the mistake would cause a change in the priority date;

provided that this paragraph shall not affect the operation of Rules 20.4, 20.5, 26bis and 38.3.

(h) Where the receiving Office, the International Searching Authority, the International Preliminary Examining Authority or the International Bureau discovers what appears to be a rectifiable obvious mistake in the international application or another document, it may invite the applicant to request rectification under this Rule.

91.2 Requests for Rectification

A request for rectification under Rule 91.1 shall be submitted to the competent authority within 26 months from the priority date. It shall specify the mistake to be rectified and the proposed rectification, and may, at the option of the applicant, contain a brief explanation. Rule 26.4 shall apply *mutatis mutandis* as to the manner in which the proposed rectification shall be indicated.

91.3 Authorization and Effect of Rectifications

- (a) The competent authority shall promptly decide whether to authorize or refuse to authorize a rectification under Rule 91.1 and shall promptly notify the applicant and the International Bureau of the authorization or refusal and, in the case of refusal, of the reasons therefor. The International Bureau shall proceed as provided for in the Administrative Instructions, including, as required, notifying the receiving Office, the International Searching Authority, the International Preliminary Examining Authority and the designated and elected Offices of the authorization or refusal.
- (b) Where the rectification of an obvious mistake has been authorized under Rule 91.1, the document concerned shall be rectified in accordance with the Administrative Instructions.
- (c) Where the rectification of an obvious mistake has been authorized, it shall be effective:
 - (i) in the case of a mistake in the

- international application as filed, from the international filing date;
- (ii) in the case of a mistake in a document other than the international application as filed, including a mistake in a correction or an amendment of the international application, from the date on which that document was submitted.
- (d) Where the competent authority refuses to authorize a rectification under Rule 91.1, the International Bureau shall, upon request submitted to it by the applicant within two months from the date of the refusal, and subject to the payment of a special fee whose amount shall be fixed in the Administrative Instructions, publish the request for rectification, the reasons for refusal by the authority and any further brief comments that may be submitted by the applicant, if possible together with the international application. A copy of the request, reasons and comments (if any) shall if possible be included in the communication under Article 20 where the international application is not published by virtue of Article 64(3).
- (e) The rectification of an obvious mistake need not be taken into account by any designated Office in which the processing or examination of the international application has already started prior to the date on which that Office is notified under Rule 91.3(a) of the authorization of the rectification by the competent authority.
- (f) A designated Office may disregard a rectification that was authorized under Rule 91.1 if it finds that it would not have authorized the rectification if it had been the competent authority.