

**Records of  
the Diplomatic  
Conference  
for the Adoption  
of a Revised  
Trademark Law Treaty  
Singapore, 2006**

Records of conference  
Singapore treaty  
trademark  
conference trademark  
law

**WORLD INTELLECTUAL PROPERTY ORGANIZATION  
(WIPO)**

**RECORDS  
OF THE DIPLOMATIC CONFERENCE FOR THE ADOPTION OF  
THE SINGAPORE TREATY ON THE LAW OF TRADEMARKS**

**SINGAPORE, 2006**

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## **EDITOR'S NOTE**

The Records of the Diplomatic Conference for the Adoption of the Singapore Treaty on the Law of Trademarks held in Singapore, from March 13 to March 31, 2006, contain the documents described below relating to that Conference which were issued before, during and after the Conference, as well as indexes to those documents.

### **The Singapore Treaty on the Law of Trademarks and the Regulations Under the Singapore Treaty on the Law of Trademarks**

- (a) Text of the Treaty and the Regulations as adopted by the Diplomatic Conference

This part of the Records contains the final text – that is the text as adopted and signed – of the Singapore Treaty on the Law of Trademarks and the Regulations under the Singapore Treaty on the Law of Trademarks (pages 9 to 117).

- (b) Text of the Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder

- (c) Text of the Basic Proposal as presented to the Diplomatic Conference

This part of the Records reproduces the draft of the Singapore Treaty on the Law of Trademarks and the Regulations under the Singapore Treaty on the Law of Trademarks as presented to the Diplomatic Conference (Basic Proposal) (pages 119 to 157).

- (d) Comparison of the texts of the Trademark Law Treaty (done at Geneva on October 27, 1994) and the Singapore Treaty on the Law on Trademarks as adopted by the Diplomatic Conference and the Regulations Thereunder.

This part of the Records shows the changes between the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder, and the Trademark Law Treaty (done at Geneva on October 27, 1994) (pages 159 to 210).

- (e) Signatories of the Singapore Treaty on the Law of Trademarks

In this part of the Records (page 211), a list of the signatories of the Treaty is reproduced.

- (f) Final Act of the Diplomatic Conference

Page 213 of the Records contains the text of the Final Act of the Diplomatic Conference and a list of signatories of the Final Act.

### **Conference Documents**

This part (pages 215 to 338) contains a list of two series of documents distributed before and during the Diplomatic Conference: mains series “TLT/R/DC” (40 documents) and information series “TLT/R/DC/INF” (five documents).

## **Summary Minutes**

This part (pages 339 to 509) contains the summary minutes of the sessions of the Plenary of the Diplomatic Conference for the Adoption of a Revised Trademark Law Treaty (pages 340 to 405) and Main Committees I and II of the Diplomatic Conference (pages 406 to 509).

## **Participants**

This part lists the individuals who, in the Diplomatic Conference, represented Ordinary Member Delegations (pages 512 to 559), Special Member Delegations (page 560), Intergovernmental Organizations (page 561), Non-Governmental Organizations (pages 561 to 562) and the World Intellectual Property Organization (page 563). This part lists also the Officers of the Diplomatic Conference and the Committees as well as the compositions of certain Committees (pages 564 to 568).

## **Indexes**

The Records contain five different indexes (pages 571 to 596).

The first index (pages 571 to 578) lists by number each Article of the Treaty and Rule of the Regulations under the Treaty, and indicates, under each of them, the pages where the text of the Article or Rule appears in these Records and those paragraphs of the summary minutes which reflect the discussion on the Article or Rule.

The second index (pages 579 to 591) is the alphabetical list of the “ordinary member delegations” on which the interventions made on their behalf can be found.

The third index (page 592) is the alphabetical list of the “special member delegations” on which the interventions made on their behalf can be found.

The fourth index (pages 593 to 594) is the alphabetical list of the “observer delegations” on which the interventions made on their behalf can be found.

The fifth index (pages 595 to 596) concerns the President of the Conference and the Chairs of the Main Committees and the list of the International Bureau of WIPO participants on which the interventions made on their behalf can be found.

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## **Text of the Treaty, the Regulations and the Resolution as Adopted by the Diplomatic Conference**

### **Singapore Treaty on the Law of Trademarks**

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*Article I*  
*Abbreviated Expressions*

For the purposes of this Treaty, unless expressly stated otherwise:

- (i) “Office” means the agency entrusted by a Contracting Party with the registration of marks;
- (ii) “registration” means the registration of a mark by an Office;
- (iii) “application” means an application for registration;
- (iv) “communication” means any application, or any request, declaration, correspondence or other information relating to an application or a registration, which is filed with the Office;
- (v) references to a “person” shall be construed as references to both a natural person and a legal entity;
- (vi) “holder” means the person whom the register of marks shows as the holder of the registration;
- (vii) “register of marks” means the collection of data maintained by an Office, which includes the contents of all registrations and all data recorded in respect of all registrations, irrespective of the medium in which such data are stored;
- (viii) “procedure before the Office” means any procedure in proceedings before the Office with respect to an application or a registration;
- (ix) “Paris Convention” means the Paris Convention for the Protection of Industrial Property, signed at Paris on March 20, 1883, as revised and amended;
- (x) “Nice Classification” means the classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, signed at Nice on June 15, 1957, as revised and amended;
- (xi) “license” means a license for the use of a mark under the law of a Contracting Party;
- (xii) “licensee” means the person to whom a license has been granted;
- (xiii) “Contracting Party” means any State or intergovernmental organization party to this Treaty;
- (xiv) “Diplomatic Conference” means the convocation of Contracting Parties for the purpose of revising or amending the Treaty;
- (xv) “Assembly” means the Assembly referred to in Article 23;

- (xvi) references to an “instrument of ratification” shall be construed as including references to instruments of acceptance and approval;
- (xvii) “Organization” means the World Intellectual Property Organization;
- (xviii) “International Bureau” means the International Bureau of the Organization;
- (xix) “Director General” means the Director General of the Organization;
- (xx) “Regulations” means the Regulations under this Treaty that are referred to in Article 22;
- (xxi) references to an “Article” or to a “paragraph”, “subparagraph” or “item” of an Article shall be construed as including references to the corresponding rule(s) under the Regulations;
- (xxii) “TLT 1994” means the Trademark Law Treaty done at Geneva on October 27, 1994.

*Article 2*  
*Marks to Which the Treaty Applies*

- (1) [*Nature of Marks*] Any Contracting Party shall apply this Treaty to marks consisting of signs that can be registered as marks under its law.
- (2) [*Kinds of Marks*]
- (a) This Treaty shall apply to marks relating to goods (trademarks) or services (service marks) or both goods and services.
- (b) This Treaty shall not apply to collective marks, certification marks and guarantee marks.

*Article 3*  
*Application*

- (1) [*Indications or Elements Contained in or Accompanying an Application; Fee*]
- (a) Any Contracting Party may require that an application contain some or all of the following indications or elements:
- (i) a request for registration;
- (ii) the name and address of the applicant;

- (iii) the name of a State of which the applicant is a national if he/she is the national of any State, the name of a State in which the applicant has his/her domicile, if any, and the name of a State in which the applicant has a real and effective industrial or commercial establishment, if any;
- (iv) where the applicant is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;
- (v) where the applicant has a representative, the name and address of that representative;
- (vi) where an address for service is required under Article 4(2)(b), such address;
- (vii) where the applicant wishes to take advantage of the priority of an earlier application, a declaration claiming the priority of that earlier application, together with indications and evidence in support of the declaration of priority that may be required pursuant to Article 4 of the Paris Convention;
- (viii) where the applicant wishes to take advantage of any protection resulting from the display of goods and/or services in an exhibition, a declaration to that effect, together with indications in support of that declaration, as required by the law of the Contracting Party;
- (ix) at least one representation of the mark, as prescribed in the Regulations;
- (x) where applicable, a statement, as prescribed in the Regulations, indicating the type of mark as well as any specific requirements applicable to that type of mark;
- (xi) where applicable, a statement, as prescribed in the Regulations, indicating that the applicant wishes that the mark be registered and published in the standard characters used by the Office;
- (xii) where applicable, a statement, as prescribed in the Regulations, indicating that the applicant wishes to claim color as a distinctive feature of the mark;
- (xiii) a transliteration of the mark or of certain parts of the mark;
- (xiv) a translation of the mark or of certain parts of the mark;
- (xv) the names of the goods and/or services for which the registration is sought, grouped according to the classes of the Nice Classification, each group preceded by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;
- (xvi) a declaration of intention to use the mark, as required by the law of the Contracting Party.

(b) The applicant may file, instead of or in addition to the declaration of intention to use the mark referred to in subparagraph (a)(xvi), a declaration of actual use of the mark and evidence to that effect, as required by the law of the Contracting Party.

(c) Any Contracting Party may require that, in respect of the application, fees be paid to the Office.

(2) [*Single Application for Goods and/or Services in Several Classes*] One and the same application may relate to several goods and/or services, irrespective of whether they belong to one class or to several classes of the Nice Classification.

(3) [*Actual Use*] Any Contracting Party may require that, where a declaration of intention to use has been filed under paragraph (1)(a)(xvi), the applicant furnish to the Office within a time limit fixed in its law, subject to the minimum time limit prescribed in the Regulations, evidence of the actual use of the mark, as required by the said law.

(4) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (3) and in Article 8 be complied with in respect of the application. In particular, the following may not be required in respect of the application throughout its pendency:

(i) the furnishing of any certificate of, or extract from, a register of commerce;

(ii) an indication of the applicant's carrying on of an industrial or commercial activity, as well as the furnishing of evidence to that effect;

(iii) an indication of the applicant's carrying on of an activity corresponding to the goods and/or services listed in the application, as well as the furnishing of evidence to that effect;

(iv) the furnishing of evidence to the effect that the mark has been registered in the register of marks of another Contracting Party or of a State party to the Paris Convention which is not a Contracting Party, except where the applicant claims the application of Article 6quinquies of the Paris Convention.

(5) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office in the course of the examination of the application where the Office may reasonably doubt the veracity of any indication or element contained in the application.

#### Article 4

##### *Representation; Address for Service*

(1) [*Representatives Admitted to Practice*]

(a) Any Contracting Party may require that a representative appointed for the purposes of any procedure before the Office

(i) have the right, under the applicable law, to practice before the Office in respect of applications and registrations and, where applicable, be admitted to practice before the Office;

(ii) provide, as its address, an address on a territory prescribed by the Contracting Party.

(b) An act, with respect to any procedure before the Office, by or in relation to a representative who complies with the requirements applied by the Contracting subparagraph (a), shall have the effect of an act by or in relation to the applicant, holder or other interested person who appointed that representative.

(2) [*Mandatory Representation; Address for Service*]

(a) Any Contracting Party may require that, for the purposes of any procedure before the Office, an applicant, holder or other interested person who has neither a domicile nor a real and effective industrial or commercial establishment on its territory be represented by a representative.

(b) Any Contracting Party may, to the extent that it does not require representation in accordance with subparagraph (a), require that, for the purposes of any procedure before the Office, an applicant, holder or other interested person who has neither a domicile nor a real and effective industrial or commercial establishment on its territory have an address for service on that territory.

(3) [*Power of Attorney*]

(a) Whenever a Contracting Party allows or requires an applicant, a holder or any other interested person to be represented by a representative before the Office, it may require that the representative be appointed in a separate communication (hereinafter referred to as “power of attorney”) indicating the name of the applicant, the holder or the other person, as the case may be.

(b) The power of attorney may relate to one or more applications and/or registrations identified in the power of attorney or, subject to any exception indicated by the appointing person, to all existing and future applications and/or registrations of that person.

(c) The power of attorney may limit the powers of the representative to certain acts. Any Contracting Party may require that any power of attorney under which the representative has the right to withdraw an application or to surrender a registration contain an express indication to that effect.

(d) Where a communication is submitted to the Office by a person who refers to himself in the communication as a representative but where the Office is, at the time of the receipt of the communication, not in possession of the required power of attorney, the Contracting Party may require that the power of attorney be submitted to the Office within the time limit fixed by the Contracting Party, subject to the minimum time limit prescribed in the Regulations. Any Contracting Party may provide that, where the power of attorney has not been submitted to the Office within the time limit fixed by the Contracting Party, the communication by the said person shall have no effect.

(4) [*Reference to Power of Attorney*] Any Contracting Party may require that any communication made to the Office by a representative for the purposes of a procedure before the Office contain a reference to the power of attorney on the basis of which the representative acts.

(5) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (3) and (4) and in Article 8 be complied with in respect of the matters dealt with in those paragraphs.

(6) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in any communication referred to in paragraphs (3) and (4).

#### *Article 5* *Filing Date*

(1) [*Permitted Requirements*]

(a) Subject to subparagraph (b) and paragraph (2), a Contracting Party shall accord as the filing date of an application the date on which the Office received the following indications and elements in the language required under Article 8(2):

- (i) an express or implicit indication that the registration of a mark is sought;
- (ii) indications allowing the identity of the applicant to be established;
- (iii) indications allowing the applicant or its representative, if any, to be contacted by the Office;
- (iv) a sufficiently clear representation of the mark whose registration is sought;
- (v) the list of the goods and/or services for which the registration is sought;
- (vi) where Article 3(1)(a)(xvi) or (b) applies, the declaration referred to in Article 3(1)(a)(xvi) or the declaration and evidence referred to in Article 3(1)(b), respectively, as required by the law of the Contracting Party.

(b) Any Contracting Party may accord as the filing date of the application the date on which the Office received only some, rather than all, of the indications and elements referred to in subparagraph (a) or received them in a language other than the language required under Article 8(2).

(2) [*Permitted Additional Requirement*]

(a) A Contracting Party may provide that no filing date shall be accorded until the required fees are paid.



(b) A Contracting Party may apply the requirement referred to in subparagraph (a) only if it applied such requirement at the time of becoming party to this Treaty.

(3) [*Corrections and Time Limits*] The modalities of, and time limits for, corrections under paragraphs (1) and (2) shall be fixed in the Regulations.

(4) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) be complied with in respect of the filing date.

#### Article 6

##### *Single Registration for Goods and/or Services in Several Classes*

Where goods and/or services belonging to several classes of the Nice Classification have been included in one and the same application, such an application shall result in one and the same registration.

#### Article 7

##### *Division of Application and Registration*

(1) [*Division of Application*]

(a) Any application listing several goods and/or services (hereinafter referred to as “initial application”) may,

- (i) at least until the decision by the Office on the registration of the mark,
- (ii) during any opposition proceedings against the decision of the Office to register the mark,
- (iii) during any appeal proceedings against the decision on the registration of the mark,

be divided by the applicant or at its request into two or more applications (hereinafter referred to as “divisional applications”) by distributing among the latter the goods and/or services listed in the initial application. The divisional applications shall preserve the filing date of the initial application and the benefit of the right of priority, if any.

(b) Any Contracting Party shall, subject to subparagraph (a), be free to establish requirements for the division of an application, including the payment of fees.

(2) [*Division of Registration*] Paragraph (1) shall apply, *mutatis mutandis*, with respect to a division of a registration. Such a division shall be permitted

- (i) during any proceedings in which the validity of the registration is challenged before the Office by a third party,

(ii) during any appeal proceedings against a decision taken by the Office during the former proceedings,

provided that a Contracting Party may exclude the possibility of the division of registrations if its law allows third parties to oppose the registration of a mark before the mark is registered.

### *Article 8* *Communications*

(1) [*Means of Transmittal and Form of Communications*] Any Contracting Party may choose the means of transmittal of communications and whether it accepts communications on paper, communications in electronic form or any other form of communication.

(2) [*Language of Communications*]

(a) Any Contracting Party may require that any communication be in a language admitted by the Office. Where the Office admits more than one language, the applicant, holder or other interested person may be required to comply with any other language requirement applicable with respect to the Office, provided that no indication or element of the communication may be required to be in more than one language.

(b) No Contracting Party may require the attestation, notarization, authentication, legalization or any other certification of any translation of a communication other than as provided under this Treaty.

(c) Where a Contracting Party does not require a communication to be in a language admitted by its Office, the Office may require that a translation of that communication by an official translator or a representative, into a language admitted by the Office, be supplied within a reasonable time limit.

(3) [*Signature of Communications on Paper*]

(a) Any Contracting Party may require that a communication on paper be signed by the applicant, holder or other interested person. Where a Contracting Party requires a communication on paper to be signed, that Contracting Party shall accept any signature that complies with the requirements prescribed in the Regulations.

(b) No Contracting Party may require the attestation, notarization, authentication, legalization or other certification of any signature except, where the law of the Contracting Party so provides, if the signature concerns the surrender of a registration.

(c) Notwithstanding subparagraph (b), a Contracting Party may require that evidence be filed with the Office where the Office may reasonably doubt the authenticity of any signature of a communication on paper.

(4) [*Communications Filed in Electronic Form or by Electronic Means of Transmittal*] Where a Contracting Party permits the filing of communications in electronic form or by electronic means of transmittal, it may require that any such communications comply with the requirements prescribed in the Regulations.

(5) [*Presentation of a Communication*] Any Contracting Party shall accept the presentation of a communication the content of which corresponds to the relevant Model International Form, if any, provided for in the Regulations.

(6) [*Prohibition of Other Requirements*] No Contracting Party may demand that, in respect of paragraphs (1) to (5), requirements other than those referred to in this Article be complied with.

(7) [*Means of Communication with Representative*] Nothing in this Article regulates the means of communication between an applicant, holder or other interested person and its representative.

#### *Article 9*

##### *Classification of Goods and/or Services*

(1) [*Indications of Goods and/or Services*] Each registration and any publication effected by an Office which concerns an application or registration and which indicates goods and/or services shall indicate the goods and/or services by their names, grouped according to the classes of the Nice Classification, and each group shall be preceded by the number of the class of that Classification to which that group of goods or services belongs and shall be presented in the order of the classes of the said Classification.

(2) [*Goods or Services in the Same Class or in Different Classes*]

(a) Goods or services may not be considered as being similar to each other on the ground that, in any registration or publication by the Office, they appear in the same class of the Nice Classification.

(b) Goods or services may not be considered as being dissimilar from each other on the ground that, in any registration or publication by the Office, they appear in different classes of the Nice Classification.

*Article 10*  
*Changes in Names or Addresses*

(1) [*Changes in the Name or Address of the Holder*]

(a) Where there is no change in the person of the holder but there is a change in its name and/or address, each Contracting Party shall accept that a request for the recordal of the change by the Office in its register of marks be made by the holder in a communication indicating the registration number of the registration concerned and the change to be recorded.

(b) Any Contracting Party may require that the request indicate

(i) the name and address of the holder;

(ii) where the holder has a representative, the name and address of that representative;

(iii) where the holder has an address for service, such address.

(c) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(d) A single request shall be sufficient even where the change relates to more than one registration, provided that the registration numbers of all registrations concerned are indicated in the request.

(2) [*Change in the Name or Address of the Applicant*] Paragraph (1) shall apply, *mutatis mutandis*, where the change concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or its representative, the request otherwise identifies that application as prescribed in the Regulations.

(3) [*Change in the Name or Address of the Representative or in the Address for Service*] Paragraph (1) shall apply, *mutatis mutandis*, to any change in the name or address of the representative, if any, and to any change relating to the address for service, if any.

(4) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (3) and in Article 8 be complied with in respect of the request referred to in this Article. In particular, the furnishing of any certificate concerning the change may not be required.

(5) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in the request.

*Article 11*  
*Change in Ownership*

(1) [*Change in the Ownership of a Registration*]

(a) Where there is a change in the person of the holder, each Contracting Party shall accept that a request for the recordal of the change by the Office in its register of marks be made by the holder or by the person who acquired the ownership (hereinafter referred to as “new owner”) in a communication indicating the registration number of the registration concerned and the change to be recorded.

(b) Where the change in ownership results from a contract, any Contracting Party may require that the request indicate that fact and be accompanied, at the option of the requesting party, by one of the following:

(i) a copy of the contract, which copy may be required to be certified, by a notary public or any other competent public authority, as being in conformity with the original contract;

(ii) an extract of the contract showing the change in ownership, which extract may be required to be certified, by a notary public or any other competent public authority, as being a true extract of the contract;

(iii) an uncertified certificate of transfer drawn up in the form and with the content as prescribed in the Regulations and signed by both the holder and the new owner;

(iv) an uncertified transfer document drawn up in the form and with the content as prescribed in the Regulations and signed by both the holder and the new owner.

(c) Where the change in ownership results from a merger, any Contracting Party may require that the request indicate that fact and be accompanied by a copy of a document, which document originates from the competent authority and evidences the merger, such as a copy of an extract from a register of commerce, and that that copy be certified by the authority which issued the document or by a notary public or any other competent public authority, as being in conformity with the original document.

(d) Where there is a change in the person of one or more but not all of several co-holders and such change in ownership results from a contract or a merger, any Contracting Party may require that any co-holder in respect of which there is no change in ownership give its express consent to the change in ownership in a document signed by it.

(e) Where the change in ownership does not result from a contract or a merger but from another ground, for example, from operation of law or a court decision, any Contracting Party may require that the request indicate that fact and be accompanied by a copy of a document evidencing the change and that that copy be certified as being in conformity with the original document by the authority which issued the document or by a notary public or any other competent public authority.

- (f) Any Contracting Party may require that the request indicate
- (i) the name and address of the holder;
  - (ii) the name and address of the new owner;
  - (iii) the name of a State of which the new owner is a national if he/she is the national of any State, the name of a State in which the new owner has his/her domicile, if any, and the name of a State in which the new owner has a real and effective industrial or commercial establishment, if any;
  - (iv) where the new owner is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;
  - (v) where the holder has a representative, the name and address of that representative;
  - (vi) where the holder has an address for service, such address;
  - (vii) where the new owner has a representative, the name and address of that representative;
  - (viii) where the new owner is required to have an address for service under Article 4(2)(b), such address.
- (g) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.
- (h) A single request shall be sufficient even where the change relates to more than one registration, provided that the holder and the new owner are the same for each registration and that the registration numbers of all registrations concerned are indicated in the request.
- (i) Where the change of ownership does not affect all the goods and/or services listed in the holder's registration, and the applicable law allows the recording of such change, the Office shall create a separate registration referring to the goods and/or services in respect of which the ownership has changed.
- (2) [*Change in the Ownership of an Application*] Paragraph (1) shall apply, *mutatis mutandis*, where the change in ownership concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or its representative, the request otherwise identifies that application as prescribed in the Regulations.

(3) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) and in Article 8 be complied with in respect of the request referred to in this Article. In particular, the following may not be required:

- (i) subject to paragraph (1)(c), the furnishing of any certificate of, or extract from, a register of commerce;
- (ii) an indication of the new owner's carrying on of an industrial or commercial activity, as well as the furnishing of evidence to that effect;
- (iii) an indication of the new owner's carrying on of an activity corresponding to the goods and/or services affected by the change in ownership, as well as the furnishing of evidence to either effect;
- (iv) an indication that the holder transferred, entirely or in part, its business or the relevant goodwill to the new owner, as well as the furnishing of evidence to either effect.

(4) [*Evidence*] Any Contracting Party may require that evidence, or further evidence where paragraph (1)(c) or (e) applies, be furnished to the Office where that Office may reasonably doubt the veracity of any indication contained in the request or in any document referred to in the present Article.

*Article 12*  
*Correction of a Mistake*

(1) [*Correction of a Mistake in Respect of a Registration*]

(a) Each Contracting Party shall accept that the request for the correction of a mistake which was made in the application or other request communicated to the Office and which mistake is reflected in its register of marks and/or any publication by the Office be made by the holder in a communication indicating the registration number of the registration concerned, the mistake to be corrected and the correction to be entered.

- (b) Any Contracting Party may require that the request indicate
  - (i) the name and address of the holder;
  - (ii) where the holder has a representative, the name and address of that representative;
  - (iii) where the holder has an address for service, such address.

(c) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(d) A single request shall be sufficient even where the correction relates to more than one registration of the same person, provided that the mistake and the requested correction are the same for each registration and that the registration numbers of all registrations concerned are indicated in the request.

(2) [*Correction of a Mistake in Respect of an Application*] Paragraph (1) shall apply, *mutatis mutandis*, where the mistake concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or its representative, the request otherwise identifies that application as prescribed in the Regulations.

(3) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) and in Article 8 be complied with in respect of the request referred to in this Article.

(4) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt that the alleged mistake is in fact a mistake.

(5) [*Mistakes Made by the Office*] The Office of a Contracting Party shall correct its own mistakes, *ex officio* or upon request, for no fee.

(6) [*Uncorrectable Mistakes*] No Contracting Party shall be obliged to apply paragraphs (1), (2) and (5) to any mistake which cannot be corrected under its law.

### Article 13

#### *Duration and Renewal of Registration*

(1) [*Indications or Elements Contained in or Accompanying a Request for Renewal; Fee*]

(a) Any Contracting Party may require that the renewal of a registration be subject to the filing of a request and that such request contain some or all of the following indications:

(i) an indication that renewal is sought;

(ii) the name and address of the holder;

(iii) the registration number of the registration concerned;

(iv) at the option of the Contracting Party, the filing date of the application which resulted in the registration concerned or the registration date of the registration concerned;

(v) where the holder has a representative, the name and address of that representative;



(vi) where the holder has an address for service, such address;

(vii) where the Contracting Party allows the renewal of a registration to be made for some only of the goods and/or services which are recorded in the register of marks and such a renewal is requested, the names of the recorded goods and/or services for which the renewal is requested or the names of the recorded goods and/or services for which the renewal is not requested, grouped according to the classes of the Nice Classification, each group preceded by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;

(viii) where a Contracting Party allows a request for renewal to be filed by a person other than the holder or its representative and the request is filed by such a person, the name and address of that person.

(b) Any Contracting Party may require that, in respect of the request for renewal, a fee be paid to the Office. Once the fee has been paid in respect of the initial period of the registration or of any renewal period, no further payment may be required for the maintenance of the registration in respect of that period. Fees associated with the furnishing of a declaration and/or evidence of use shall not be regarded, for the purposes of this subparagraph, as payments required for the maintenance of the registration and shall not be affected by this subparagraph.

(c) Any Contracting Party may require that the request for renewal be presented, and the corresponding fee referred to in subparagraph (b) be paid, to the Office within the period fixed by the law of the Contracting Party, subject to the minimum periods prescribed in the Regulations.

(2) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraph (1) and in Article 8 be complied with in respect of the request for renewal. In particular, the following may not be required:

(i) any representation or other identification of the mark;

(ii) the furnishing of evidence to the effect that the mark has been registered, or that its registration has been renewed, in any other register of marks;

(iii) the furnishing of a declaration and/or evidence concerning use of the mark.

(3) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office in the course of the examination of the request for renewal where the Office may reasonably doubt the veracity of any indication or element contained in the request for renewal.

(4) [*Prohibition of Substantive Examination*] No Office of a Contracting Party may, for the purposes of effecting the renewal, examine the registration as to substance.

(5) [*Duration*] The duration of the initial period of the registration, and the duration of each renewal period, shall be 10 years.

*Article 14**Relief Measures in Case of Failure to Comply with Time Limits*

(1) [*Relief Measure Before the Expiry of a Time Limit*] A Contracting Party may provide for the extension of a time limit for an action in a procedure before the Office in respect of an application or a registration, if a request to that effect is filed with the Office prior to the expiry of the time limit.

(2) [*Relief Measures After the Expiry of a Time Limit*] Where an applicant, holder or other interested person has failed to comply with a time limit (“the time limit concerned”) for an action in a procedure before the Office of a Contracting Party in respect of an application or a registration, the Contracting Party shall provide for one or more of the following relief measures, in accordance with the requirements prescribed in the Regulations, if a request to that effect is filed with the Office:

(i) extension of the time limit concerned for the period prescribed in the Regulations;

(ii) continued processing with respect to the application or registration;

(iii) reinstatement of the rights of the applicant, holder or other interested person with respect to the application or registration if the Office finds that the failure to comply with the time limit concerned occurred in spite of due care required by the circumstances having been taken or, at the option of the Contracting Party, that the failure was unintentional.

(3) [*Exceptions*] No Contracting Party shall be required to provide for any of the relief measures referred to in paragraph (2) with respect to the exceptions prescribed in the Regulations.

(4) [*Fee*] Any Contracting Party may require that a fee be paid in respect of any of the relief measures referred to in paragraphs (1) and (2).

(5) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in this Article and in Article 8 be complied with in respect of any of the relief measures referred to in paragraph (2).

*Article 15**Obligation to Comply with the Paris Convention*

Any Contracting Party shall comply with the provisions of the Paris Convention which concern marks.

*Article 16*  
*Service Marks*

Any Contracting Party shall register service marks and apply to such marks the provisions of the Paris Convention which concern trademarks.

*Article 17*  
*Request for Recordal of a License*

(1) [*Requirements Concerning the Request for Recordal*] Where the law of a Contracting Party provides for the recordal of a license with its Office, that Contracting Party may require that the request for recordal

(i) be filed in accordance with the requirements prescribed in the Regulations, and

(ii) be accompanied by the supporting documents prescribed in the Regulations.

(2) [*Fee*] Any Contracting Party may require that, in respect of the recordal of a license, a fee be paid to the Office.

(3) [*Single Request Relating to Several Registrations*] A single request shall be sufficient even where the license relates to more than one registration, provided that the registration numbers of all registrations concerned are indicated in the request, the holder and the licensee are the same for all registrations, and the request indicates the scope of the license in accordance with the Regulations with respect to all registrations.

(4) [*Prohibition of Other Requirements*]

(a) No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (3) and in Article 8 be complied with in respect of the recordal of a license with its Office. In particular, the following may not be required:

(i) the furnishing of the registration certificate of the mark which is the subject of the license;

(ii) the furnishing of the license contract or a translation of it;

(iii) an indication of the financial terms of the license contract.

(b) Subparagraph (a) is without prejudice to any obligations existing under the law of a Contracting Party concerning the disclosure of information for purposes other than the recording of the license in the register of marks.

(5) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in the request or in any document referred to in the Regulations.

(6) [*Requests Relating to Applications*] Paragraphs (1) to (5) shall apply, *mutatis mutandis*, to requests for recordal of a license for an application, where the law of a Contracting Party provides for such recordal.

#### Article 18

##### *Request for Amendment or Cancellation of the Recordal of a License*

(1) [*Requirements Concerning the Request*] Where the law of a Contracting Party provides for the recordal of a license with its Office, that Contracting Party may require that the request for amendment or cancellation of the recordal of a license

(i) be filed in accordance with the requirements prescribed in the Regulations, and

(ii) be accompanied by the supporting documents prescribed in the Regulations.

(2) [*Other Requirements*] Article 17(2) to (6) shall apply, *mutatis mutandis*, to requests for amendment or cancellation of the recordal of a license.

#### Article 19

##### *Effects of the Non-Recordal of a License*

(1) [*Validity of the Registration and Protection of the Mark*] The non-recordal of a license with the Office or with any other authority of the Contracting Party shall not affect the validity of the registration of the mark which is the subject of the license or the protection of that mark.

(2) [*Certain Rights of the Licensee*] A Contracting Party may not require the recordal of a license as a condition for any right that the licensee may have under the law of that Contracting Party to join infringement proceedings initiated by the holder or to obtain, by way of such proceedings, damages resulting from an infringement of the mark which is the subject of the license.

(3) [*Use of a Mark Where License Is Not Recorded*] A Contracting Party may not require the recordal of a license as a condition for the use of a mark by a licensee to be deemed to constitute use by the holder in proceedings relating to the acquisition, maintenance and enforcement of marks.

#### Article 20

##### *Indication of the License*

Where the law of a Contracting Party requires an indication that the mark is used under a license, full or partial non-compliance with that requirement shall not affect the validity of the registration of the mark which is the subject of the license or the protection of that mark, and shall not affect the application of Article 19(3).

*Article 21*  
*Observations in Case of Intended Refusal*

An application under Article 3 or a request under Articles 7, 10 to 14, 17 and 18 may not be refused totally or in part by an Office without giving the applicant or the requesting party, as the case may be, an opportunity to make observations on the intended refusal within a reasonable time limit. In respect of Article 14, no Office shall be required to give an opportunity to make observations where the person requesting the relief measure has already had an opportunity to present an observation on the facts on which the decision is to be based.

*Article 22*  
*Regulations*

- (1) [*Content*]
  - (a) The Regulations annexed to this Treaty provide rules concerning
    - (i) matters which this Treaty expressly provides to be “prescribed in the Regulations”;
    - (ii) any details useful in the implementation of the provisions of this Treaty;
    - (iii) any administrative requirements, matters or procedures.
  - (b) The Regulations also contain Model International Forms.
- (2) [*Amending the Regulations*] Subject to paragraph (3), any amendment of the Regulations shall require three-fourths of the votes cast.
- (3) [*Requirement of Unanimity*]
  - (a) The Regulations may specify provisions of the Regulations which may be amended only by unanimity.
  - (b) Any amendment of the Regulations resulting in the addition of provisions to, or the deletion of provisions from, the provisions specified in the Regulations pursuant to subparagraph (a) shall require unanimity.
  - (c) In determining whether unanimity is attained, only votes actually cast shall be taken into consideration. Abstentions shall not be considered as votes.
- (4) [*Conflict Between the Treaty and the Regulations*] In the case of conflict between the provisions of this Treaty and those of the Regulations, the former shall prevail.

*Article 23*  
*Assembly*

(1) [*Composition*]

(a) The Contracting Parties shall have an Assembly.

(b) Each Contracting Party shall be represented in the Assembly by one delegate, who may be assisted by alternate delegates, advisors and experts. Each delegate may represent only one Contracting Party.

(2) [*Tasks*] The Assembly shall

(i) deal with matters concerning the development of this Treaty;

(ii) amend the Regulations, including the Model International Forms;

(iii) determine the conditions for the date of application of each amendment referred to in item (ii);

(iv) perform such other functions as are appropriate to implementing the provisions of this Treaty.

(3) [*Quorum*]

(a) One-half of the members of the Assembly which are States shall constitute a quorum.

(b) Notwithstanding subparagraph (a), if, in any session, the number of the members of the Assembly which are States and are represented is less than one-half but equal to or more than one-third of the members of the Assembly which are States, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the members of the Assembly which are States and were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of such members having thus expressed their vote or abstention attains the number of the members which was lacking for attaining the quorum in the session itself, such decisions shall take effect, provided that at the same time the required majority still obtains.

(4) [*Taking Decisions in the Assembly*]

(a) The Assembly shall endeavor to take its decisions by consensus.

(b) Where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. In such a case,

(i) each Contracting Party that is a State shall have one vote and shall vote only in its own name; and

(ii) any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its Member States which are party to this Treaty. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and vice versa. In addition, no such intergovernmental organization shall participate in the vote if any one of its Member States party to this Treaty is a Member State of another such intergovernmental organization and that other intergovernmental organization participates in that vote.

(5) [*Majorities*]

(a) Subject to Articles 22(2) and (3), the decisions of the Assembly shall require two-thirds of the votes cast.

(b) In determining whether the required majority is attained, only votes actually cast shall be taken into consideration. Abstentions shall not be considered as votes.

(6) [*Sessions*] The Assembly shall meet upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(7) [*Rules of Procedure*] The Assembly shall establish its own rules of procedure, including rules for the convocation of extraordinary sessions.

*Article 24*  
*International Bureau*

(1) [*Administrative Tasks*]

(a) The International Bureau shall perform the administrative tasks concerning this Treaty.

(b) In particular, the International Bureau shall prepare the meetings and provide the secretariat of the Assembly and of such committees of experts and working groups as may be established by the Assembly.

(2) [*Meetings Other than Sessions of the Assembly*] The Director General shall convene any committee and working group established by the Assembly.

(3) [*Role of the International Bureau in the Assembly and Other Meetings*]

(a) The Director General and persons designated by the Director General shall participate, without the right to vote, in all meetings of the Assembly, the committees and working groups established by the Assembly.

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

(4) [*Conferences*]

(a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for any revision conferences.

(b) The International Bureau may consult with Member States of the Organization, intergovernmental organizations and international and national non-governmental organizations concerning the said preparations.

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

(5) [*Other Tasks*] The International Bureau shall carry out any other tasks assigned to it in relation to this Treaty.

*Article 25*  
*Revision or Amendment*

This Treaty may only be revised or amended by a diplomatic conference. The convocation of any diplomatic conference shall be decided by the Assembly.

*Article 26*  
*Becoming Party to the Treaty*

(1) [*Eligibility*] The following entities may sign and, subject to paragraphs (2) and (3) and Article 28(1) and (3), become party to this Treaty:

(i) any State member of the Organization in respect of which marks may be registered with its own Office;

(ii) any intergovernmental organization which maintains an Office in which marks may be registered with effect in the territory in which the constituting treaty of the intergovernmental organization applies, in all its Member States or in those of its Member States which are designated for such purpose in the relevant application, provided that all the Member States of the intergovernmental organization are members of the Organization;

(iii) any State member of the Organization in respect of which marks may be registered only through the Office of another specified State that is a member of the Organization;

(iv) any State member of the Organization in respect of which marks may be registered only through the Office maintained by an intergovernmental organization of which that State is a member;



(v) any State member of the Organization in respect of which marks may be registered only through an Office common to a group of States members of the Organization.

(2) [*Ratification or Accession*] Any entity referred to in paragraph (1) may deposit

(i) an instrument of ratification, if it has signed this Treaty,

(ii) an instrument of accession, if it has not signed this Treaty.

(3) [*Effective Date of Deposit*] The effective date of the deposit of an instrument of ratification or accession shall be,

(i) in the case of a State referred to in paragraph (1)(i), the date on which the instrument of that State is deposited;

(ii) in the case of an intergovernmental organization, the date on which the instrument of that intergovernmental organization is deposited;

(iii) in the case of a State referred to in paragraph (1)(iii), the date on which the following condition is fulfilled: the instrument of that State has been deposited and the instrument of the other, specified State has been deposited;

(iv) in the case of a State referred to in paragraph (1)(iv), the date applicable under item (ii), above;

(v) in the case of a State member of a group of States referred to in paragraph (1)(v), the date on which the instruments of all the States members of the group have been deposited.

#### *Article 27*

##### *Application of the TLT 1994 and This Treaty*

(1) [*Relations Between Contracting Parties to Both This Treaty and the TLT 1994*] This Treaty alone shall be applicable as regards the mutual relations of Contracting Parties to both this Treaty and the TLT 1994.

(2) [*Relations Between Contracting Parties to This Treaty and Contracting Parties to the TLT 1994 That Are Not Party to This Treaty*] Any Contracting Party to both this Treaty and the TLT 1994 shall continue to apply the TLT 1994 in its relations with Contracting Parties to the TLT 1994 that are not party to this Treaty.

*Article 28*  
*Entry into Force;*  
*Effective Date of Ratifications and Accessions*

(1) [*Instruments to Be Taken into Consideration*] For the purposes of this Article, only instruments of ratification or accession that are deposited by entities referred to in Article 26(1) and that have an effective date according to Article 26(3) shall be taken into consideration.

(2) [*Entry into Force of the Treaty*] This Treaty shall enter into force three months after ten States or intergovernmental organizations referred to in Article 26(1)(ii) have deposited their instruments of ratification or accession.

(3) [*Entry into Force of Ratifications and Accessions Subsequent to the Entry into Force of the Treaty*] Any entity not covered by paragraph (2) shall become bound by this Treaty three months after the date on which it has deposited its instrument of ratification or accession.

*Article 29*  
*Reservations*

(1) [*Special Kinds of Marks*] Any State or intergovernmental organization may declare through a reservation that, notwithstanding Article 2(1) and (2)(a), any of the provisions of Articles 3(1), 5, 7, 8(5), 11 and 13 shall not apply to associated marks, defensive marks or derivative marks. Such reservation shall specify those of the aforementioned provisions to which the reservation relates.

(2) [*Multiple-class Registration*] Any State or intergovernmental organization, whose legislation at the date of adoption of this Treaty provides for a multiple-class registration for goods and for a multiple-class registration for services may, when acceding to this Treaty, declare through a reservation that the provisions of Article 6 shall not apply.

(3) [*Substantive Examination on the Occasion of Renewal*] Any State or intergovernmental organization may declare through a reservation that, notwithstanding Article 13(4), the Office may, on the occasion of the first renewal of a registration covering services, examine such registration as to substance, provided that such examination shall be limited to the elimination of multiple registrations based on applications filed during a period of six months following the entry into force of the law of such State or organization that introduced, before the entry into force of this Treaty, the possibility of registering service marks.

(4) [*Certain Rights of the Licensee*] Any State or intergovernmental organization may declare through a reservation that, notwithstanding Article 19(2), it requires the recordal of a license as a condition for any right that the licensee may have under the law of that State or intergovernmental organization to join infringement proceedings initiated by the holder or to obtain, by way of such proceedings, damages resulting from an infringement of the mark which is the subject of the license.

(5) [*Modalities*] Any reservation under paragraphs (1), (2), (3) or (4) shall be made in a declaration accompanying the instrument of ratification of, or accession to, this Treaty of the State or intergovernmental organization making the reservation.

(6) [*Withdrawal*] Any reservation under paragraphs (1), (2), (3) or (4) may be withdrawn at any time.

(7) [*Prohibition of Other Reservations*] No reservation to this Treaty other than the reservations allowed under paragraphs (1), (2), (3) and (4) shall be permitted.

*Article 30*  
*Denunciation of the Treaty*

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

(2) [*Effective Date*] Denunciation shall take effect one year from the date on which the Director General has received the notification. It shall not affect the application of this Treaty to any application pending or any mark registered in respect of the denouncing Contracting Party at the time of the expiration of the said one-year period, provided that the denouncing Contracting Party may, after the expiration of the said one-year period, discontinue applying this Treaty to any registration as from the date on which that registration is due for renewal.

*Article 31*  
*Languages of the Treaty; Signature*

(1) [*Original Texts; Official Texts*]

(a) This Treaty shall be signed in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic.

(b) An official text in a language not referred to in subparagraph (a) that is an official language of a Contracting Party shall be established by the Director General after consultation with the said Contracting Party and any other interested Contracting Party.

(2) [*Time Limit for Signature*] This Treaty shall remain open for signature at the headquarters of the Organization for one year after its adoption.

*Article 32*  
*Depositary*

The Director General shall be the depositary of this Treaty.

**REGULATIONS UNDER THE SINGAPORE TREATY ON THE LAW OF TRADEMARKS**

## List of Rules

- Rule 1: Abbreviated Expressions  
 Rule 2: Manner of Indicating Names and Addresses  
 Rule 3: Details Concerning the Application  
 Rule 4: Details Concerning Representation and Address for Service  
 Rule 5: Details Concerning the Filing Date  
 Rule 6: Details Concerning Communications  
 Rule 7: Manner of Identification of an Application Without Its Application Number  
 Rule 8: Details Concerning Duration and Renewal  
 Rule 9: Relief Measures in Case of Failure to Comply with Time Limits  
 Rule 10: Requirements Concerning the Request for Recordal of a License or for Amendment or Cancellation of the Recordal of a License

## List of Model International Forms

- Form No. 1 Application for the Registration of a Mark  
 Form No. 2 Power of Attorney  
 Form No. 3 Request for the Recordal of Change(s) in Name(s) and/or Address(es)  
 Form No. 4 Request for the Recordal of a Change in Ownership in Respect of Registration(s) and/or Application(s) for Registration of Marks  
 Form No. 5 Certificate of Transfer in Respect of Registration(s) and/or Application(s) for Registration of Marks  
 Form No. 6 Transfer Document in Respect of Registration(s) and/or Application(s) for Registration of Marks  
 Form No. 7 Request for the Correction of Mistake(s) in Registration(s) and/or Application(s) for Registration of Marks  
 Form No. 8 Request for the Renewal of a Registration  
 Form No. 9 Request for Recordal of License  
 Form No. 10 Statement of License  
 Form No. 11 Statement of Amendment of License  
 Form No. 12 Statement of Cancellation of License

*Rule 1*  
*Abbreviated Expressions*

(1) [*Abbreviated Expressions Defined in the Regulations*] For the purposes of these Regulations, unless expressly stated otherwise:

- (i) “Treaty” means the Singapore Treaty on the Law of Trademarks;
- (ii) “Article” refers to the specified Article of the Treaty;
- (iii) “exclusive license” means a license which is only granted to one licensee and which excludes the holder from using the mark and from granting licenses to any other person;
- (iv) “sole license” means a license which is only granted to one licensee and which excludes the holder from granting licenses to any other person but does not exclude the holder from using the mark;
- (v) “non-exclusive license” means a license which does not exclude the holder from using the mark or from granting licenses to any other person.

(2) [*Abbreviated Expressions Defined in the Treaty*] The abbreviated expressions defined in Article 1 for the purposes of the Treaty shall have the same meaning for the purposes of these Regulations.

*Rule 2*  
*Manner of Indicating Names and Addresses*

(1) [*Names*]

(a) Where the name of a person is to be indicated, any Contracting Party may require,

(i) where the person is a natural person, that the name to be indicated be the family or principal name and the given or secondary name or names of that person or that the name to be indicated be, at that person’s option, the name or names customarily used by the said person;

(ii) where the person is a legal entity, that the name to be indicated be the full official designation of the legal entity.

(b) Where the name of a representative which is a firm or partnership is to be indicated, any Contracting Party shall accept as indication of the name the indication that the firm or partnership customarily uses.

(2) [*Addresses*]

(a) Where the address of a person is to be indicated, any Contracting Party may require that the address be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address and, in any case, consist of all the relevant administrative units up to, and including, the house or building number, if any.

(b) Where a communication to the Office of a Contracting Party is in the name of two or more persons with different addresses, that Contracting Party may require that such communication indicate a single address as the address for correspondence.

(c) The indication of an address may contain a telephone number, a telefacsimile number and an e-mail address and, for the purposes of correspondence, an address different from the address indicated under subparagraph (a).

(d) Subparagraphs (a) and (c) shall apply, *mutatis mutandis*, to addresses for service.

(3) [*Other Means of Identification*] Any Contracting Party may require that a communication to the Office indicate the number or other means of identification, if any, with which the applicant, holder, representative or interested person is registered with its Office. No Contracting Party may refuse a communication on grounds of failure to comply with any such requirement, except for applications filed in electronic form.

(4) [*Script to Be Used*] Any Contracting Party may require that any indication referred to in paragraphs (1) to (3) be in the script used by the Office.

*Rule 3**Details Concerning the Application*

(1) [*Standard Characters*] Where the Office of a Contracting Party uses characters (letters and numbers) that it considers as being standard, and where the application contains a statement to the effect that the applicant wishes that the mark be registered and published in the standard characters used by the Office, the Office shall register and publish that mark in such standard characters.

(2) [*Mark Claiming Color*] Where the application contains a statement to the effect that the applicant wishes to claim color as a distinctive feature of the mark, the Office may require that the application indicate the name or code of the color or colors claimed and an indication, in respect of each color, of the principal parts of the mark which are in that color.

(3) [*Number of Reproductions*]

(a) Where the application does not contain a statement to the effect that the applicant wishes to claim color as a distinctive feature of the mark, a Contracting Party may not require more than

(i) five reproductions of the mark in black and white where the application may not, under the law of that Contracting Party, or does not contain a statement to the effect that the applicant wishes the mark to be registered and published in the standard characters used by the Office of the said Contracting Party;

(ii) one reproduction of the mark in black and white where the application contains a statement to the effect that the applicant wishes the mark to be registered and published in the standard characters used by the Office of that Contracting Party.

(b) Where the application contains a statement to the effect that the applicant wishes to claim color as a distinctive feature of the mark, a Contracting Party may not require more than five reproductions of the mark in black and white and five reproductions of the mark in color.

(4) [*Three-Dimensional Mark*]

(a) Where the application contains a statement to the effect that the mark is a three-dimensional mark, the reproduction of the mark shall consist of a two-dimensional graphic or photographic reproduction.

(b) The reproduction furnished under subparagraph (a) may, at the option of the applicant, consist of one single view of the mark or of several different views of the mark.

(c) Where the Office considers that the reproduction of the mark furnished by the applicant under subparagraph (a) does not sufficiently show the particulars of the three-dimensional mark, it may invite the applicant to furnish, within a reasonable time limit fixed in the invitation, up to six different views of the mark and/or a description by words of that mark.

(d) Where the Office considers that the different views and/or the description of the mark referred to in subparagraph (c) still do not sufficiently show the particulars of the three-dimensional mark, it may invite the applicant to furnish, within a reasonable time limit fixed in the invitation, a specimen of the mark.

(e) Paragraph (3)(a)(i) and (b) shall apply *mutatis mutandis*.

(5) [*Hologram Mark, Motion Mark, Color Mark, Position Mark*] Where the application contains a statement to the effect that the mark is a hologram mark, a motion mark, a color mark or a position mark, a Contracting Party may require one or more reproductions of the mark and details concerning the mark, as prescribed by the law of that Contracting Party.

(6) [*Mark Consisting of a Non-Visible Sign*] Where the application contains a statement to the effect that the mark consists of a non-visible sign, a Contracting Party may require one or more representations of the mark, an indication of the type of mark and details concerning the mark, as prescribed by the law of that Contracting Party.

(7) [*Transliteration of the Mark*] For the purposes of Article 3(1)(a)(xiii), where the mark consists of or contains matter in script other than the script used by the Office or numbers expressed in numerals other than numerals used by the Office, a transliteration of such matter in the script and numerals used by the Office may be required.

(8) [*Translation of the Mark*] For the purposes of Article 3(1)(a)(xiv), where the mark consists of or contains a word or words in a language other than the language, or one of the languages, admitted by the Office, a translation of that word or those words into that language or one of those languages may be required.

(9) [*Time Limit for Furnishing Evidence of Actual Use of the Mark*] The time limit referred to in Article 3(3) shall not be shorter than six months counted from the date of allowance of the application by the Office of the Contracting Party where that application was filed. The applicant or holder shall have the right to an extension of that time limit, subject to the conditions provided for by the law of that Contracting Party, by periods of at least six months each, up to a total extension of at least two years and a half.

#### *Rule 4*

##### *Details Concerning Representation and Address for Service*

(1) [*Address Where a Representative Is Appointed*] Where a representative is appointed, a Contracting Party shall consider the address of that representative to be the address for service.

(2) [*Address Where No Representative Is Appointed*] Where no representative is appointed and an applicant, holder or other interested person has provided as its address an address on the territory of the Contracting Party, that Contracting Party shall consider that address to be the address for service.

(3) [*Time Limit*] The time limit referred to in Article 4(3)(d) shall be counted from the date of receipt of the communication referred to in that Article by the Office of the Contracting Party concerned and shall not be less than one month where the address of the person on whose behalf the communication is made is on the territory of that Contracting Party and not less than two months where such an address is outside the territory of that Contracting Party.

#### *Rule 5*

##### *Details Concerning the Filing Date*

(1) [*Procedure in Case of Non-Compliance with Requirements*] If the application does not, at the time of its receipt by the Office, comply with any of the applicable requirements of Article 5(1)(a) or (2)(a), the Office shall promptly invite the applicant to comply with such requirements within a time limit indicated in the invitation, which time limit shall be at least one month from the date of the invitation where the applicant's address is on the territory of the Contracting Party concerned and at least two months where the applicant's address is outside the territory of the Contracting Party concerned. Compliance with the invitation may be subject to the payment of a special fee. Even if the Office fails to send the said invitation, the said requirements remain unaffected.



(2) [*Filing Date in Case of Correction*] If, within the time limit indicated in the invitation, the applicant complies with the invitation referred to in paragraph (1) and pays any required special fee, the filing date shall be the date on which all the required indications and elements referred to in Article 5(1)(a) have been received by the Office and, where applicable, the required fees referred to in Article 5(2)(a) have been paid to the Office. Otherwise, the application shall be treated as if it had not been filed.

*Rule 6*  
*Details Concerning Communications*

(1) [*Indications Accompanying Signature of Communications on Paper*] Any Contracting Party may require that the signature of the natural person who signs be accompanied by

(i) an indication in letters of the family or principal name and the given or secondary name or names of that person or, at the option of that person, of the name or names customarily used by the said person;

(ii) an indication of the capacity in which that person signed, where such capacity is not obvious from reading the communication.

(2) [*Date of Signing*] Any Contracting Party may require that a signature be accompanied by an indication of the date on which the signing was effected. Where that indication is required but is not supplied, the date on which the signing is deemed to have been effected shall be the date on which the communication bearing the signature was received by the Office or, if the Contracting Party so allows, a date earlier than the latter date.

(3) [*Signature of Communications on Paper*] Where a communication to the Office of a Contracting Party is on paper and a signature is required, that Contracting Party

(i) shall, subject to item (iii), accept a handwritten signature;

(ii) may permit, instead of a handwritten signature, the use of other forms of signature, such as a printed or stamped signature, or the use of a seal or of a bar-coded label;

(iii) may, where the natural person who signs the communication is a national of the Contracting Party and such person's address is on its territory, or where the legal entity on behalf of which the communication is signed is organized under its law and has either a domicile or a real and effective industrial or commercial establishment on its territory, require that a seal be used instead of a handwritten signature.

(4) [*Signature of Communications on Paper Filed by Electronic Means of Transmittal*] A Contracting Party that provides for communications on paper to be filed by electronic means of transmittal shall consider any such communication signed if a graphic representation of a signature accepted by that Contracting Party under paragraph (3) appears on the communication as received.

(5) [*Original of a Communication on Paper Filed by Electronic Means of Transmittal*] A Contracting Party that provides for communications on paper to be filed by electronic means of transmittal may require that the original of any such communication be filed

(i) with the Office accompanied by a letter identifying that earlier transmission and

(ii) within a time limit which shall be at least one month from the date on which the Office received the communication by electronic means of transmittal.

(6) [*Authentication of Communications in Electronic Form*] A Contracting Party that permits the filing of communications in electronic form may require that any such communication be authenticated through a system of electronic authentication as prescribed by that Contracting Party.

(7) [*Date of Receipt*] Each Contracting Party shall be free to determine the circumstances in which the receipt of a document or the payment of a fee shall be deemed to constitute receipt by or payment to the Office in cases in which the document was actually received by or payment was actually made to

(i) a branch or sub-office of the Office,

(ii) a national Office on behalf of the Office of the Contracting Party, where the Contracting Party is an intergovernmental organization referred to in Article 26(1)(ii),

(iii) an official postal service,

(iv) a delivery service, or an agency, specified by the Contracting Party,

(v) an address other than the nominated addresses of the Office.

(8) [*Electronic Filing*] Subject to paragraph (7), where a Contracting Party provides for the filing of a communication in electronic form or by electronic means of transmittal and the communication is so filed, the date on which the Office of that Contracting Party receives the communication in such form or by such means shall constitute the date of receipt of the communication.

*Rule 7*  
*Manner of Identification of an Application*  
*Without Its Application Number*

(1) [*Manner of Identification*] Where it is required that an application be identified by its application number but where such a number has not yet been issued or is not known to the applicant or its representative, that application shall be considered identified if the following is supplied:

- (i) the provisional application number, if any, given by the Office, or
- (ii) a copy of the application, or
- (iii) a representation of the mark, accompanied by an indication of the date on which, to the best knowledge of the applicant or the representative, the application was received by the Office and an identification number given to the application by the applicant or the representative.

(2) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraph (1) be complied with in order for an application to be identified where its application number has not yet been issued or is not known to the applicant or its representative.

*Rule 8*  
*Details Concerning Duration and Renewal*

For the purposes of Article 13(1)(c), the period during which the request for renewal may be presented and the renewal fee may be paid shall start at least six months before the date on which the renewal is due and shall end at the earliest six months after that date. If the request for renewal is presented and/or the renewal fees are paid after the date on which the renewal is due, any Contracting Party may subject the acceptance of the request for renewal to the payment of a surcharge.

*Rule 9*  
*Relief Measures in Case of*  
*Failure to Comply with Time Limits*

(1) [*Requirements Concerning Extension of Time Limits Under Article 14(2)(i)*] A Contracting Party that provides for the extension of a time limit under Article 14(2)(i) shall extend the time limit for a reasonable period of time from the date of filing the request for extension and may require that the request

- (i) contain an identification of the requesting party, the relevant application or registration number and the time limit concerned, and
- (ii) be filed within a time limit which shall not be less than two months from the date of expiry of the time limit concerned.

(2) [*Requirements Concerning Continued Processing Under Article 14(2)(ii)*] A Contracting Party may require that the request for continued processing under Article 14(2)(ii)

(i) contain an identification of the requesting party, the relevant application or registration number and the time limit concerned, and

(ii) be filed within a time limit which shall not be less than two months from the date of expiry of the time limit concerned. The omitted act shall be completed within the same period or, where the Contracting Party so provides, together with the request.

(3) [*Requirements Concerning Reinstatement of Rights Under Article 14(2)(iii)*]

(a) A Contracting Party may require that the request for reinstatement of rights under Article 14(2)(iii)

(i) contain an identification of the requesting party, the relevant application or registration number and the time limit concerned, and

(ii) set out the facts and evidence in support of the reasons for the failure to comply with the time limit concerned.

(b) The request for reinstatement of rights shall be filed with the Office within a reasonable time limit, the duration of which shall be determined by the Contracting Party from the date of the removal of the cause of failure to comply with the time limit concerned. The omitted act shall be completed within the same period or, where the Contracting Party so provides, together with the request.

(c) A Contracting Party may provide for a maximum time limit for complying with the requirements under subparagraphs (a) and (b) of not less than six months from the date of expiry of the time limit concerned.

(4) [*Exceptions Under Article 14(3)*] The exceptions referred to in Article 14(3) are the cases of failure to comply with a time limit

(i) for which a relief measure has already been granted under Article 14(2),

(ii) for filing a request for a relief measure under Article 14,

(iii) for payment of a renewal fee,

(iv) for an action before a board of appeal or other review body constituted in the framework of the Office,

(v) for an action in *inter partes* proceedings,

(vi) for filing the declaration referred to in Article 3(1)(a)(vii) or the declaration referred to in Article 3(1)(a)(viii),

(vii) for filing a declaration which, under the law of the Contracting Party, may establish a new filing date for a pending application, and

(viii) for the correction or addition of a priority claim.

*Rule 10*

*Requirements Concerning the Request for Recordal of a License or for  
Amendment or Cancellation of the Recordal of a License*

(1) [*Content of Request*]

(a) A Contracting Party may require that the request for recordal of a license under Article 17(1) contain some or all of the following indications or elements:

- (i) the name and address of the holder;
- (ii) where the holder has a representative, the name and address of that representative;
- (iii) where the holder has an address for service, such address;
- (iv) the name and address of the licensee;
- (v) where the licensee has a representative, the name and address of that representative;
- (vi) where the licensee has an address for service, such address;
- (vii) the name of a State of which the licensee is a national if he/she is a national of any State, the name of a State in which the licensee has his/her domicile, if any, and the name of a State in which the licensee has a real and effective industrial or commercial establishment, if any;
- (viii) where the holder or the licensee is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;
- (ix) the registration number of the mark which is the subject of the license;
- (x) the names of the goods and/or services for which the license is granted, grouped according to the classes of the Nice Classification, each group preceded by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;
- (xi) whether the license is an exclusive license, a non-exclusive license or a sole license;
- (xii) where applicable, that the license concerns only a part of the territory covered by the registration, together with an explicit indication of that part of the territory;

(xiii) the duration of the license.

(b) A Contracting Party may require that the request for amendment or cancellation of the recordal of a license under Article 18(1) contain some or all of the following indications or elements:

(i) the indications specified in items (i) to (ix) of subparagraph (a);

(ii) where the amendment or cancellation concerns any of the indications or elements specified under subparagraph (a), the nature and scope of the amendment or cancellation to be recorded.

(2) [*Supporting Documents for Recordal of a License*]

(a) A Contracting Party may require that the request for recordal of a license be accompanied, at the option of the requesting party, by one of the following:

(i) an extract of the license contract indicating the parties and the rights being licensed, certified by a notary public or any other competent public authority as being a true extract of the contract; or

(ii) an uncertified statement of license, the content of which corresponds to the statement of license Form provided for in the Regulations, and signed by both the holder and the licensee.

(b) Any Contracting Party may require that any co-holder who is not a party to the license contract give its express consent to the license in a document signed by it.

(3) [*Supporting Documents for Amendment of Recordal of a License*]

(a) A Contracting Party may require that the request for amendment of the recordal of a license be accompanied, at the option of the requesting party, by one of the following:

(i) documents substantiating the requested amendment of the recordal of the license; or

(ii) an uncertified statement of amendment of license, the content of which corresponds to the statement of amendment of license Form provided for in these Regulations, and signed by both the holder and the licensee.

(b) Any Contracting Party may require that any co-holder who is not a party to the license contract give its express consent to the amendment of the license in a document signed by it.

(4) [*Supporting Documents for Cancellation of Recordal of a License*] A Contracting Party may require that the request for cancellation of the recordal of a license be accompanied, at the option of the requesting party, by one of the following:

- (i) documents substantiating the requested cancellation of the recordal of the license; or
- (ii) an uncertified statement of cancellation of license, the content of which corresponds to the statement of cancellation of license Form provided for in these Regulations, and signed by both the holder and the licensee.

**RESOLUTION BY THE DIPLOMATIC CONFERENCE SUPPLEMENTARY TO THE  
SINGAPORE TREATY ON THE LAW OF TRADEMARKS AND THE REGULATIONS  
THEREUNDER**

1. The Diplomatic Conference for the Adoption of a Revised Trademark Law Treaty, held in Singapore in March 2006, agreed that the Treaty adopted by the Conference would be named “Singapore Treaty on the Law of Trademarks” (hereinafter referred to as “the Treaty”).

2. When adopting the Treaty, the Diplomatic Conference agreed that the words “procedure before the Office” in Article I(viii) would not cover judicial procedures under the Contracting Parties’ legislation.

3. Acknowledging the fact that the Treaty provides for effective and efficient trademark formality procedures for Contracting Parties, the Diplomatic Conference understood that Articles 2 and 8, respectively, did not impose any obligations on Contracting Parties to:

(i) register new types of marks, as referred to in Rule 3, paragraphs (4), (5) and (6) of the Regulations; or

(ii) implement electronic filing systems or other automation systems.

Each Contracting Party shall have the option to decide whether and when to provide for the registration of new types of marks, as referred to above.

4. With a view to facilitating the implementation of the Treaty in Developing and Least Developed Countries (LDCs), the Diplomatic Conference requested the World Intellectual Property Organization (WIPO) and the Contracting Parties to provide additional and adequate technical assistance comprising technological, legal and other forms of support to strengthen the institutional capacity of those countries to implement the Treaty and enable those countries to take full advantage of the provisions of the Treaty.

5. Such assistance should take into account the level of technological and economic development of beneficiary countries. Technological support would help improve the information and communication technology infrastructure of those countries, thus contributing to narrowing the technological gap between Contracting Parties. The Diplomatic Conference noted that some countries underlined the importance of the Digital Solidarity Fund (DSF) as being relevant to narrowing the digital divide.

6. Furthermore, upon entry into force of the Treaty, Contracting Parties will undertake to exchange and share, on a multilateral basis, information and experience on legal, technical and institutional aspects regarding the implementation of the Treaty and how to take full advantage of opportunities and benefits resulting therefrom.



7. The Diplomatic Conference, acknowledging the special situation and needs of LDCs, agreed that LDCs shall be accorded special and differential treatment for the implementation of the Treaty, as follows:

(a) LDCs shall be the primary and main beneficiaries of technical assistance by the Contracting Parties and the World Intellectual Property Organization (WIPO);

(b) such technical assistance includes the following:

(i) assistance in establishing the legal framework for the implementation of the Treaty,

(ii) information, education and awareness raising as regards the impact of acceding to the Treaty,

(iii) assistance in revising administrative practices and procedures of national trademark registration authorities,

(iv) assistance in building up the necessary trained manpower and facilities of the IP Offices, including information and communication technology capacity to effectively implement the Treaty and its Regulations.

8. The Diplomatic Conference requested the Assembly to monitor and evaluate, at every ordinary session, the progress of the assistance related to implementation efforts and the benefits resulting from such implementation.

9. The Diplomatic Conference agreed that any dispute that may arise between two or more Contracting Parties with respect to the interpretation or the application of this Treaty should be settled amicably through consultation and mediation under the auspices of the Director General.

**MODEL INTERNATIONAL FORM NO. 1****APPLICATION FOR THE REGISTRATION OF A MARK**

submitted to the Office of .....

FOR OFFICE USE ONLY
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<p>Reference number of applicant<sup>1</sup>: .....</p> <p>Reference number of representative<sup>1</sup>: .....</p>
--

**1. Request for Registration**

Registration of the mark reproduced in the present application is hereby requested.

**2. Applicants(s)**

2.1 If the applicant is a natural person, the person's

- (a) family or principal name<sup>2</sup>:
- (b) given or secondary name(s)<sup>2</sup>:

<sup>1</sup> The reference number allotted by the applicant and/or the reference number allotted by the representative to the present application may be indicated in this space.

<sup>2</sup> The names to be indicated under (a) and (b) are either the full names of the applicant or the names customarily used by the applicant.

2.2 If the applicant is a legal entity, the entity's full official designation:

2.3 Address (including postal code and country):

Telephone number(s):  
(with the area code)

Telefacsimile number(s):  
(with the area code)

E-mail address:

2.4 State of nationality:

State of domicile:

State of establishment<sup>3</sup>:

2.5 Where the applicant is a legal entity, indicate

- the legal nature of the legal entity:
- the State, and, where applicable, the territorial unit within that State, under the law of which the legal entity is organized:

2.6  Check this box if there is more than one applicant; in that case, list them on an additional sheet and indicate, in respect of each of them, the data referred to in items 2.1 or 2.2, 2.3, 2.4 and 2.5<sup>4</sup>.

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### 3. Representative

3.1  The applicant is not represented.

3.2  The applicant is represented.

3.2.1 Identification of the representative

3.2.1.1 Name:

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<sup>3</sup> "Establishment" means a real and effective industrial or commercial establishment.

<sup>4</sup> Where several applicants are listed on the additional sheet with different addresses and there is no representative, the address for correspondence must be underlined on the additional sheet.

## 3.2.1.2 Address (including postal code and country):

Telephone number(s):  
(with the area code)Telefacsimile number(s):  
(with the area code)

E-mail address:

3.2.2  The power of attorney is already in the possession of the Office.  
Serial number<sup>5</sup>:.....3.2.3  The power of attorney is attached.3.2.4  The power of attorney will be furnished at a later date.3.2.5  No power of attorney is needed.

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**4. Address for Service<sup>6</sup>**

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**5. Claiming of Priority** The applicant hereby claims the following priority:5.1 Country (Office) of first filing<sup>7</sup>:

5.2 Date of first filing:

5.3 Application number of first filing (if available):

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<sup>5</sup> To be left blank if the power of attorney has not, or has not yet, been allotted a serial number or if the serial number is not yet known to the applicant or the representative.

<sup>6</sup> An address for service must be indicated in the space available under the title of item 4 where the applicant does not have or, if there is more than one applicant, where none of the applicants has a domicile or a real and effective industrial or commercial establishment on the territory of the Contracting Party whose Office is the Office named on the first page of the present application, except where a representative is indicated in item 3.

<sup>7</sup> Where the application the priority of which is claimed was filed with an Office other than a national Office (e.g., OAPI, the Benelux Trademark Office and the Office for Harmonization in the Internal Market (trade marks and designs), the name of that Office has to be indicated instead of the name of a country. Otherwise, not the name of the Office but the name of the country must be indicated.

- 5.4 The certified copy of the application the priority of which is claimed<sup>8</sup>
- 5.4.1  is attached.
- 5.4.2  will be furnished within three months from the filing date of the present application.
- 5.5 The translation of the certified copy
- 5.5.1  is attached.
- 5.5.2  will be furnished within three months from the filing date of the present application.
- 5.6  Check this box if there is more than one filing whose priority is claimed; in that case, list them in an additional sheet and indicate, in respect of each of them, the information referred to in items 5.1, 5.2, 5.3, 5.4 and 5.5 and the goods and/or services mentioned in each of them.
- 

**6. Registration(s) in the Country (Office) of Origin<sup>9</sup>**

- The certificate(s) of registration in the country (Office) of origin is (are) attached.
- 

**7. Protection Resulting From Display in an Exhibition**

- Check this box if the applicant wishes to take advantage of any protection resulting from the display of goods and/or services in an exhibition. In that case, give the details on an additional sheet.
- 

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<sup>8</sup> “Certified copy” means a copy of the application the priority of which is claimed, certified as being in conformity with the original by the Office which received such application.

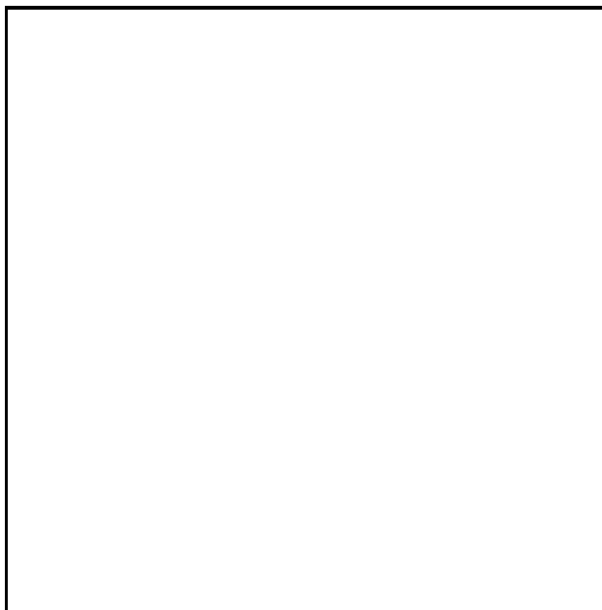
<sup>9</sup> To be filled in where the applicant wishes to furnish evidence under Article 6*quinquies* A(1) of the Paris Convention when filing the application.

**8. Representation of the Mark**

8.1  The mark is a visible sign.

8.1.1.      Reproduction of the mark:

(8 cm x 8 cm)



8.2  The applicant wishes that the Office register and publish the mark in the standard characters used by it<sup>10</sup>.

8.3  Color is claimed as a distinctive feature of the mark.

8.3.1 Indication of the color(s) claimed<sup>11</sup>:

8.3.2 Principal parts of the mark which are in that (those) color(s):

8.4  The mark is three-dimensional.

.....<sup>12</sup> different views of the mark are attached.

<sup>10</sup> Such a wish cannot be expressed in respect of marks which contain or consist of figurative elements. If, in the opinion of the Office, they do contain such elements, the Office will ignore the wish of the applicant and will register and publish the mark as appearing in the square.

<sup>11</sup> The indication of the color may consist of the name and/or code of the color(s) claimed.

<sup>12</sup> If several different views of the mark are not included in the square provided in item 8 but are attached, check this box and indicate the number of those different views.

8.5 The mark is a

8.5.1  hologram mark.

8.5.2  motion mark.

8.5.3  color mark.

8.5.4  position mark.

8.6 Where applicable, details concerning the mark(s) under 8.5<sup>13</sup>.

8.7 .....<sup>14</sup> reproduction(s) of the mark in black and white is (are) attached.

8.8 .....<sup>14</sup> reproduction(s) of the mark in color is (are) attached.

8.9  The mark is a non-visible sign<sup>15</sup>.

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## 9. Transliteration of the Mark

This mark or part of the mark is transliterated as follows:

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## 10. Translation of the Mark

The mark or part of the mark is translated as follows:

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<sup>13</sup> In respect of any of these types of mark, the Office of a Contracting Party may require one or more reproductions of the mark and details concerning the mark, as prescribed by the law of that Contracting Party.

<sup>14</sup> Indicate the number of reproductions in black and white and/or color.

<sup>15</sup> If the mark consists of a non-visible sign, the Office of a Contracting Party may require an indication of the type of mark, one or more representations of the mark and details concerning the mark, as prescribed by the law of that Contracting Party.

**11. Goods and/or Services**

Names of the goods and/or services<sup>16</sup>:

- Check this box if the space above is not sufficient; in that case, give the names of the goods and/or services on an additional sheet.
- 

**12. Declaration Concerning Intention to Use or Actual Use; Evidence of Actual Use**

12.1  Check this box if a declaration is attached.

12.2  Check this box if evidence of actual use is attached.

---

**13. Requirements Relating to Languages**

- Check this box if an attachment is enclosed in order to comply with any language requirement applicable with respect to the Office<sup>17</sup>.
- 

**14. Signature or Seal**

14.1 Name of the natural person who signs or whose seal is used:

14.2 Check the appropriate box according to whether the signature is given, or the seal is used, by or on behalf of the

14.2.1  applicant.

14.2.2  representative.

14.3 Date of signature or of sealing:

14.4 Signature or seal:

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<sup>16</sup> Where the goods and/or services belong to more than one class of the Nice Classification, they must be grouped according to the classes of that Classification. The number of each class must be indicated and the goods and/or services belonging to the same class must be grouped following the indication of the number of that class. Each group of goods or services must be presented in the order of the classes of the Nice Classification. Where all the goods or services belong to one class of the Nice Classification, the number of that class must be indicated.

<sup>17</sup> This box is not to be used if the Office does not admit more than one language.



**15. Fee(s)**

15.1 Currency and amount(s) of the fee(s) paid in connection with the present application:

15.2 Method of payment:

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**16. Additional Sheets and Attachments**

Check this box if additional sheets and/or attachments are enclosed and indicate the total number of such sheets and/or attachments:

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**MODEL INTERNATIONAL FORM No. 2****POWER OF ATTORNEY**

for procedure before the Office of .....

FOR OFFICE USE ONLY
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Reference number of person making the appointment <sup>1</sup> : .....
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**1. Appointment**

The undersigned hereby appoints as his/her representative the person identified in item 3, below.

**2. Name of the Person Making the Appointment<sup>2</sup>**

<sup>1</sup> The reference number allotted by the person making the appointment to this power of attorney may be indicated in this space.

<sup>2</sup> If the person making the appointment is the applicant (or one of the applicants), the name to be indicated is that of that applicant, as indicated in the application(s) to which this power relates. If the said person is the holder (or one of the holders), the name to be indicated is that of that holder, as recorded in the register of marks. If the said person is an interested person other than an applicant or holder, the name to be indicated is the full name of that person or the name customarily used by that person.

**3. Representative**

3.1 Name:

3.2 Address (including postal code and country):

Telephone number(s):  
(with the area code)Telefacsimile number(s):  
(with the area code)

E-mail address:

**4. Application(s) and/or Registration(s) Concerned**

This power of attorney concerns:

4.1  all existing and future applications and/or registrations of the person making the appointment, subject to any exception indicated on an additional sheet.4.2  the following application(s) and/or registration(s):4.2.1 the application(s) concerning the following mark(s)<sup>3</sup>:4.2.2 the application(s) having the following application number(s)<sup>4</sup> as well as any registration(s) resulting therefrom:

4.2.3 the registration(s) having the following registration number(s):

4.2.4  If the spaces under 4.2.1, 4.2.2 or 4.2.3 are not sufficient, check this box and provide the information on an additional sheet.<sup>3</sup> Complete this item if the power of attorney is filed with the Office together with the application(s).<sup>4</sup> Where the application number of an application has not yet been issued or is not known to the applicant or its representative, that application may be identified by furnishing either: (i) the provisional application number, if any, given by the Office, or (ii) a copy of the application, or (iii) a representation of the mark, accompanied by an indication of the date on which, to the best knowledge of the applicant or its representative, the application was received by the Office and an identification number given to the application by the applicant or its representative.

**5. Scope of the Power of Attorney**

- 5.1  Check this box if the representative has the right to act as representative for all purposes, including, where the person making the appointment is an applicant or a holder, the following purposes:
- 5.1.1  withdrawal of the application(s).
- 5.1.2  surrender of the registration(s).
- 5.2  Check this box if the representative does not have the right to act as representative for all purposes and indicate here or on an additional sheet the purposes excluded from the powers of the representative:
- 

**6. Signature or Seal**

- 6.1 Name of the natural person who signs or whose seal is used:
- 6.2 Date of signature or of sealing:
- 6.3 Signature or seal:
- 

**7. Additional Sheets and Attachments**

- Check this box if additional sheets and/or attachments are enclosed and indicate the total number of such sheets and/or attachments:
-



**MODEL INTERNATIONAL FORM No. 3****REQUEST FOR THE RECORDAL OF CHANGE(S)  
IN NAME(S) OR ADDRESS(ES)**

in respect of registration(s) and/or  
application(s) for registration of mark(s)

submitted to the Office of .....

FOR OFFICE USE ONLY

Reference number of holder  
and/or applicant<sup>1</sup>: .....

Reference number of representative<sup>1</sup>: .....

**1. Request for Recordal**

The recordal of the change(s) indicated in the present request is hereby requested.

**2. Registration(s) and/or Application(s) Concerned**

The present request concerns the following registration(s) and/or application(s):

2.1 Registration number(s):

<sup>1</sup> The reference number allotted by the holder and/or applicant and/or the reference number allotted by the representative to the present request may be indicated in this space.

2.2 Application number(s)<sup>2</sup>:

2.3  If the spaces under 2.1 or 2.2 are not sufficient, check this box and provide the information on an additional sheet.

---

### 3. Holder(s) and/or Applicant(s)

3.1 If the holder and/or applicant is a natural person, the person's

(a) family or principal name<sup>3</sup>:

(b) given or secondary name(s)<sup>3</sup>:

3.2 If the holder and/or applicant is a legal entity, the entity's full official designation:

3.3 Address (including postal code and country):

Telephone number(s):  
(with the area code)

Telefacsimile number(s):  
(with the area code)

E-mail address:

3.4  Check this box if there is more than one holder and/or applicant; in that case, list them on an additional sheet and indicate, in respect of each of them, the data referred to in items 3.1 or 3.2 and 3.3.

---

### 4. Representative

4.1 Name:

4.2 Address (including postal code and country):

---

<sup>2</sup> Where the application number of an application has not yet been issued or is not known to the applicant or its representative, that application may be identified by furnishing either: (i) the provisional application number, if any, given by the Office, or (ii) a copy of the application, or (iii) a representation of the mark, accompanied by an indication of the date on which, to the best knowledge of the applicant or its representative, the application was received by the Office and an identification number given to the application by the applicant or its representative.

<sup>3</sup> The names to be indicated under (a) and (b) are those which were indicated in the application(s), or are recorded in respect of the registration(s), to which the present request relates.

Telephone number(s):  
(with the area code)

Telefacsimile number(s):  
(with the area code)

E-mail address:

4.3 Serial number of the power of attorney<sup>4</sup>:

## 5. Address for Service

## 6. Indication of the Change(s)

6.1 Data to be changed:

Data as changed<sup>5</sup>:

6.2  Check this box if the above space is insufficient; in that case, indicate on an additional sheet the data to be changed with the data as changed.

## 7. Signature or Seal

7.1 Name of the natural person who signs or whose seal is used:

7.2 Check the appropriate box according to whether the signature is given, or the seal is used, by or on behalf of the

7.2.1  holder and/or applicant.

7.2.2  representative.

7.3 Date of signature or of sealing:

7.4 Signature or seal:

<sup>4</sup> To be left blank if the power of attorney has not, or has not yet, been allotted a serial number or if the serial number is not yet known to the holder and/or applicant or the representative.

<sup>5</sup> Indicate the name(s) and/or address(es) as changed.



**8. Fee**

8.1 Currency and amount of the fee paid in connection with the present request for the recordal of change(s):

8.2 Method of payment:

---

**9. Additional Sheets and Attachments**

Check this box if additional sheets and/or attachments are enclosed and indicate the total number of such sheets and/or attachments:

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**MODEL INTERNATIONAL FORM No. 4****REQUEST FOR THE RECORDAL OF A CHANGE  
IN OWNERSHIP**

in respect of registration(s) and/or  
application(s) for registration of mark(s)

submitted to the Office of .....

FOR OFFICE USE ONLY

Reference number of holder  
and/or applicant<sup>1</sup>: .....

Reference number of representative<sup>1</sup>: .....

**1. Request for Recordal**

The recordal of the change in ownership indicated in the present request is hereby requested.

**2. Registration(s) and/or Application(s) Concerned**

The present request concerns the following registration(s) and/or application(s):

2.1 Registration number(s):

<sup>1</sup> The reference number allotted by the holder and/or applicant and/or the reference number allotted by the representative to the present request may be indicated in this space.

2.2 Application number(s)<sup>2</sup>:

2.3  If the spaces under 2.1 or 2.2 are not sufficient, check this box and provide the information on an additional sheet.

---

### 3. Goods and/or Services Affected by the Change

3.1  Check this box where all the goods and/or services listed in the application(s) and/or registration(s) referred to in item 2 are affected by the change.

3.2  Check this box where item 2 mentions only one application or registration and where only some of the goods and/or services listed in that application or registration are affected by the change and indicate the goods and/or services that should appear in the application or registration of the new owner (in which case the goods and/or services not indicated will remain in the application or registration of the applicant or holder):

3.3  Check this box where item 2 mentions more than one application or registration and if in respect of at least one of them the change affects less than all the goods and/or services listed. In this case, indicate on an additional sheet, separately in respect of each application and/or registration, whether the change affects all the goods and/or services or only some of them. In respect of any application or registration where only some of the goods and/or services are affected by the change, make the indication in the way specified in item 3.2.

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---

<sup>2</sup> Where the application number of an application has not yet been issued or is not known to the applicant or its representative, that application may be identified by furnishing either: (i) the provisional application number, if any, given by the Office, or (ii) a copy of the application, or (iii) a representation of the mark, accompanied by an indication of the date on which, to the best knowledge of the applicant or its representative, the application was received by the Office and an identification number given to the application by the applicant or its representative.

**4. Basis for the Change in Ownership**

4.1  The change in ownership results from a contract.

One of the following documents is enclosed:

4.1.1  a copy, certified as being in conformity with the original, of the contract.

4.1.2  an extract, certified as being a true extract, of the contract.

4.1.3  a certificate of transfer.

4.1.4  a transfer document.

4.2  The change in ownership results from a merger.

A copy, certified as being in conformity with the original, of the following document, evidencing the merger, is enclosed:

4.2.1  extract from the register of commerce.

4.2.2  other document originating from the competent authority.

4.3  The change in ownership does not result from a contract or a merger.

4.3.1  A copy, certified as being in conformity with the original, of a document evidencing the change is enclosed.

---

**5. Holder(s) and/or Applicant(s)**

5.1 If the holder and/or applicant is a natural person, the person's

(a) family or principal name<sup>3</sup>:

(b) given or secondary name(s)<sup>3</sup>:

5.2 If the holder and/or applicant is a legal entity, the entity's full official designation:

---

<sup>3</sup> The names to be indicated under (a) and (b) are those which were indicated in the application(s), or are recorded in respect of the registration(s), to which the present request relates.

5.3 Address (including postal code and country):

Telephone number(s):  
(with the area code)

Telefacsimile number(s):  
(with the area code)

E-mail address:

5.4  Check this box if there is more than one holder and/or applicant affected by the change; in that case, list them on an additional sheet and indicate, in respect of each of them, the data referred to in items 5.1 or 5.2 and 5.3.

5.5  Check this box if the holder and/or applicant, or one of the holders and/or applicants, has changed names and/or addresses without requesting the recordal of that change, and enclose a document evidencing that the person having transferred the ownership and the holder and/or applicant are the same person.

---

## 6. Representative of the Holder and/or Applicant

6.1 Name:

6.2 Address (including postal code and country):

Telephone number(s):  
(with the area code)

Telefacsimile number(s):  
(with the area code)

E-mail address:

6.3 Serial number of the power of attorney<sup>4</sup>:

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## 7. Address for Service of the Holder and/or Applicant

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<sup>4</sup> To be left blank if the power of attorney has not, or has not yet, been allotted a serial number or if the serial number is not yet known to the holder and/or applicant or the representative.

**8. New Owner(s)**

8.1 If the new owner is a natural person, the person's

- (a) family or principal name<sup>5</sup>:
- (b) given or secondary name(s)<sup>5</sup>:

8.2 If the new owner is a legal entity, the entity's full official designation:

8.3 Address (including postal code and country):

Telephone number(s):  
(with the area code)

Telefacsimile number(s):  
(with the area code)

E-mail address:

8.4 State of nationality:

State of domicile:

State of establishment<sup>6</sup>:

8.5 Where the new owner is a legal entity, indicate

- the legal nature of the legal entity:
- the State, and, where applicable, the territorial unit within that State, under the law of which the legal entity is organized:

8.6  Check this box if there is more than one new owner; in that case, list them on an additional sheet and indicate, in respect of each of them, the data referred to in items 8.1 or 8.2, 8.3, 8.4 and 8.5<sup>7</sup>.

<sup>5</sup> The names to be indicated under (a) and (b) are either the full names of the new owner or the names customarily used by the new owner.

<sup>6</sup> "Establishment" means a real and effective industrial or commercial establishment.

<sup>7</sup> Where several new owners are listed on the additional sheet with different addresses and there is no representative, the address for correspondence must be underlined on the additional sheet.

**9. Representative of the New Owner**9.1  The new owner is not represented.9.2  The new owner is represented.

## 9.2.1 Identification of the representative

9.2.1.1 Name:

9.2.1.2 Address (including postal code and country):

Telephone number(s):  
(with the area code)Telefacsimile number(s):  
(with the area code)

E-mail address:

9.2.2  The power of attorney is already in the possession of the Office.  
Serial number: .....<sup>8</sup>9.2.3  The power of attorney is attached.9.2.4  The power of attorney will be furnished at a later date.9.2.5  No power of attorney is needed.

---

**10. Address for Service of the New Owner<sup>9</sup>**

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<sup>8</sup> To be left blank if the power of attorney has not, or has not yet, been allotted a serial number or if the serial number is not yet known to the new owner or the representative.<sup>9</sup> An address for service must be indicated in the space available under the title of item 10 where the new owner does not have or, if there is more than one new owner, where none of the new owners has a domicile or a real and effective industrial or commercial establishment on the territory of the Contracting Party whose Office is the Office named on the first page of the present request, except where a representative is indicated in item 9.

**11. Signature or Seal**

11.1 Name of the natural person who signs or whose seal is used:

11.2 Check the appropriate box according to whether the signature is given, or the seal is used, by or on behalf of the

11.2.1  holder and/or applicant.

11.2.2  new owner.

11.2.3  representative.

11.3 Date of signature or of sealing:

11.4 Signature or seal:

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**12. Fee**

12.1 Currency and amount of the fee paid in connection with the present request for the recordal of a change in ownership:

12.2 Method of payment:

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**13. Additional Sheets and Attachments**

Check this box if additional sheets and/or attachments are enclosed and indicate the total number of such sheets and/or attachments:

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**MODEL INTERNATIONAL FORM No. 5****CERTIFICATE OF TRANSFER**

in respect of registration(s) and/or  
application(s) for registration of mark(s)

submitted to the Office of .....

FOR OFFICE USE ONLY
---------------------

**1. Certification**

The undersigned transferor(s) and transferee(s) hereby certify that the ownership of the registration(s) and/or application(s) identified below has been transferred by contract.

**2. Registration(s) and/or Application(s) Concerned**

The present certificate concerns the transfer of the following registration(s) and/or application(s):

2.1 Registration number(s):

2.2 Application number(s)<sup>1</sup>:

2.3  If the spaces under 2.1 or 2.2 are not sufficient, check this box and provide the information on an additional sheet.

<sup>1</sup> Where the application number of an application has not yet been issued or is not known to the transferor or its representative, that application may be identified by furnishing either: (i) the provisional application number, if any, given by the Office, or (ii) a copy of the application, or (iii) a representation of the mark, accompanied by an indication of the date on which, to the best knowledge of the transferor or its representative, the application was received by the Office and an identification number given to the application by the transferor or its representative.

**3. Goods and/or Services Affected by the Transfer**

- 3.1  Check this box where all the goods and/or services listed in the application(s) and/or registration(s) referred to in item 2 have been affected by the transfer.
- 3.2  Check this box where item 2 mentions only one application or registration and where only some of the goods and/or services listed in that application or registration have been affected by the transfer and indicate the goods and/or services that have been affected by the transfer:
- 3.3  Check this box where item 2 mentions more than one application or registration and if in respect of at least one of them the transfer has affected less than all the goods and/or services listed. In this case, indicate on an additional sheet, separately in respect of each application and/or registration, whether the transfer affected all the goods and/or services or only some of them. In respect of any application or registration where only some of the goods and/or services were affected by the transfer, make the indication in the way specified in item 3.2.

---

**4. Transferor(s)**

- 4.1 If the transferor is a natural person, the person's
- (a) family or principal name<sup>2</sup>:
  - (b) given or secondary name(s)<sup>2</sup>:
- 4.2 If transferor is a legal entity, the entity's full official designation:

---

<sup>2</sup> The names to be indicated under (a) and (b) are those which were indicated in the application(s), or are recorded in respect of the registration(s), to which the present certificate relates.

4.3 Address (including postal code and country):

Telephone number(s):  
(with the area code)

Telefacsimile number(s):  
(with the area code)

E-mail address:

4.4  Check this box if there is more than one transferor; in that case, list them on an additional sheet and indicate, in respect of each of them, the data referred to in items 4.1 or 4.2 and 4.3.

---

## 5. Transferee(s)

5.1 If the transferee is a natural person, the person's

(a) family or principal name<sup>3</sup>:

(b) given or secondary name(s)<sup>3</sup>:

5.2 If the transferee is a legal entity, the entity's full official designation:

5.3 Address (including postal code and country):

Telephone number(s):  
(with the area code)

Telefacsimile number(s):  
(with the area code)

E-mail address:

5.4  Check this box if there is more than one transferee; in that case, list them on an additional sheet and indicate, in respect of each of them, the data referred to in items 5.1 or 5.2 and 5.3.

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<sup>3</sup> The names to be indicated under (a) and (b) are either the full names of the transferee or the names customarily used by the transferee.

**6. Signatures or Seals**

6.1 Signature(s) or seal(s) of the transferor(s)

6.1.1 Name(s) of the natural person(s) who sign(s) or whose seal(s) is (are) used:

6.1.2 Date of signature(s) or of sealing(s):

6.1.3 Signature(s) or seal(s):

6.2 Signature(s) or seal(s) of the transferee(s)

6.2.1 Name(s) of the natural person(s) who sign(s) or whose seal(s) is (are) used:

6.2.2 Date of signature(s) or of sealing(s):

6.2.3 Signature(s) or seal(s):

---

**7. Additional Sheets and Attachments**

Check this box if additional sheets and/or attachments are enclosed and indicate the total number of such sheets and/or attachments:

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**MODEL INTERNATIONAL FORM No. 6****TRANSFER DOCUMENT**

in respect of registration(s) and/or  
application(s) for registration of marks

submitted to the Office of .....

FOR OFFICE USE ONLY

**1. Declaration of Transfer**

The undersigned transferor(s) transfers (transfer) to the undersigned transferee(s) the ownership of the registration(s) and/or application(s) identified below.

**2. Registration(s) and/or Application(s) Concerned**

The present document concerns the transfer of the following registration(s) and/or application(s):

2.1 Registration number(s):

2.2 Application number(s)<sup>1</sup>:

2.3  If the spaces under 2.1 or 2.2 are not sufficient, check this box and provide the information on an additional sheet.

---

<sup>1</sup> Where the application number of an application has not yet been issued or is not known to the transferor or its representative, that application may be identified by furnishing either: (i) the provisional application number, if any, given by the Office, or (ii) a copy of the application, or (iii) a representation of the mark, accompanied by an indication of the date on which, to the best knowledge of the transferor or its representative, the application was received by the Office and an identification number given to the application by the transferor or its representative.

**3. Goods and/or Services Affected by the Transfer**

- 3.1  Check this box where all the goods and/or services listed in the application(s) and/or registration(s) referred to in item 2 are affected by the transfer.
- 3.2  Check this box where item 2 mentions only one application or registration and where only some of the goods and/or services listed in that application or registration are affected by the transfer and indicate the goods and/or services that are affected by the transfer:
- 3.3  Check this box where item 2 mentions more than one application or registration and if in respect of at least one of them the transfer affects less than all the goods and/or services listed. In this case, indicate on an additional sheet, separately in respect of each application and/or registration, whether the transfer affects all the goods and/or services or only some of them. In respect of any application or registration where only some of the goods and/or services that are affected by the transfer, make the indication in the way specified in item 3.2.

---

**4. Transferor(s)**

- 4.1 If the transferor is a natural person, the person's
- (a) family or principal name<sup>2</sup>:
- (b) given or secondary name(s)<sup>2</sup>:
- 4.2 If the transferor is a legal entity, the entity's full official designation:

---

<sup>2</sup> The names to be indicated under (a) and (b) are those which were indicated in the application(s), or are recorded in respect of the registration(s), to which the present document relates.

4.3 Address (including postal code and country):

Telephone number(s):  
(with the area code)

Telefacsimile number(s):  
(with the area code)

E-mail address:

4.4  Check this box if there is more than one transferor; in that case, list them on an additional sheet and indicate, in respect of each of them, the data referred to in items 4.1 or 4.2 and 4.3.

---

## 5. Transferee(s)

5.1 If the transferee is a natural person, the person's

(a) family or principal name<sup>3</sup>:

(b) given or secondary name(s)<sup>3</sup>:

5.2 If the transferee is a legal entity, the entity's full official designation:

5.3 Address (including postal code and country):

Telephone number(s):  
(with the area code)

Telefacsimile number(s):  
(with the area code)

E-mail address:

5.4  Check this box if there is more than one transferee; in that case, list them on an additional sheet and indicate, in respect of each of them, the data referred to in items 5.1 or 5.2 and 5.3.

---



---

<sup>3</sup> The names to be indicated under (a) and (b) are either the full names of the transferee or the names customarily used by the transferee.



**6. Additional Indications** (see the Annex to this Form (attached))

(the furnishing of any of those indications is optional for the purposes of recordal of the change in ownership)

Check this box if the Annex is used.

---

**7. Signatures or Seals**

7.1 Signature(s) or seal(s) of the transferor(s)

7.1.1 Name(s) of the natural person(s) who sign(s) or whose seal(s) is (are) used:

7.1.2 Date of signature(s) or of sealing(s):

7.1.3 Signature(s) or seal(s):

7.2 Signature(s) or seal(s) of the transferee(s)

7.2.1 Name(s) of the natural person(s) who sign(s) or whose seal(s) is (are) used:

7.2.2 Date of signature(s) or of sealing(s):

7.2.3 Signature(s) or seal(s):

---

**8. Additional Sheets, Attachments and Annex**

Check this box if additional sheets and/or attachments are enclosed and indicate the total number of such sheets and/or attachments:

Check this box if an Annex is enclosed and indicate the number of the pages of the Annex and the number of any additional sheets to the Annex:

---

## Annex to Form No. 6

**Additional Indications Relating  
to a Transfer Document (Item 6)****A. Transfer of Goodwill or Business**

- (a)  Check this box where the transfer is made with the relevant goodwill or the business in respect of all the goods and/or services listed in the application(s) and/or registration(s) referred to in item 2 of the transfer document.
- (b)  Check this box where item 2 of the transfer document mentions only one application or registration and where the transfer is made with the relevant goodwill or the business in respect of only some of the goods and/or services listed in that application or registration and indicate the goods and/or services in respect of which the transfer is made with the relevant goodwill or the business:
- (c)  Check this box where item 2 of the transfer document mentions more than one application or registration and if in respect of at least one of them the transfer is made with the relevant goodwill or the business in respect of less than all the goods and/or services listed. In this case, indicate on an additional sheet, separately in respect of each application and/or registration, whether the transfer is made with the relevant goodwill or the business in respect of all the goods and/or services or only some of them. In respect of any application or registration where the transfer is made with the relevant goodwill or the business in respect of only some of the goods and/or services, make the indication in the way specified in item (b).

**B. Transfer of Rights Resulting from Use**

The rights, arising from the use of the mark, are transferred in respect of

- (a)  all registration(s) and/or application(s).
- (b)  only the following registration(s) and/or application(s):

**C. Transfer of the Right to Sue**

The transferee shall have the right to sue for past infringements.

**D. Consideration**

- (a)  The transfer is effected in consideration for money received.
- (b)  The transfer is effected in consideration for money received and other good and valuable consideration.
- (c)  The transferor hereby acknowledges receipt of the above-mentioned consideration.

**E. Effective Date of the Transfer**

- (a)  The transfer is effective as of the date of signature of the present transfer document.
- (b)  The transfer is effective as of the following date: .....

**MODEL INTERNATIONAL FORM No. 7****REQUEST FOR THE CORRECTION OF MISTAKE(S)**

in registration(s) and/or application(s) for registration of marks

submitted to the Office of .....

FOR OFFICE USE ONLY

Reference number of holder  
and/or applicant<sup>1</sup>: .....

Reference number of representative<sup>1</sup>: .....

**1. Request for Correction**

The correction(s) identified in the present request is (are) hereby requested.

**2. Registration(s) and/or Application(s) Concerned**

The present request concerns the following registration(s) and/or application(s):

2.1 Registration number(s):

2.2 Application number(s)<sup>2</sup>:

<sup>1</sup> The reference number allotted by the holder and/or applicant and/or the reference number allotted by the representative to the present request may be indicated in this space.

<sup>2</sup> Where the application number of an application has not yet been issued or is not known to the applicant or its representative, that application may be identified by furnishing either: (i) the provisional application number, if any, given by the Office, or (ii) a copy of the application, or (iii) a representation of the mark, accompanied by an indication of the date on which, to the best knowledge of the applicant or its representative, the application was received by the Office and an identification number given to the application by the applicant or its representative.

- 2.3  If the spaces under 2.1 or 2.2 are not sufficient, check this box and provide the information on an additional sheet.
- 

### 3. Holder(s) and/or Applicant(s)

- 3.1 If the holder and/or applicant is a natural person, the person's
- (a) family or principal name<sup>3</sup>:
  - (b) given or secondary name(s)<sup>3</sup>:
- 3.2 If the holder and/or applicant is a legal entity, the entity's full official designation:
- 3.3 Address (including postal code and country):

Telephone number(s):  
(with the area code)

Telefacsimile number(s):  
(with the area code)

E-mail address:

- 3.4  Check this box if there is more than one holder and/or applicant; in that case, list them on an additional sheet and indicate, in respect of each of them, the data referred to in items 3.1 or 3.2 and 3.3.
- 

### 4. Representative

- 4.1 Name:
- 4.2 Address (including postal code and country):

Telephone number(s):  
(with the area code)

Telefacsimile number(s):  
(with the area code)

E-mail address:

---

<sup>3</sup> The names to be indicated under (a) and (b) are those which were indicated in the application(s), or are recorded in respect of the registration(s), to which the present request relates.

4.3 Serial number of the power of attorney<sup>4</sup>:

---

**5. Address for Service**

---

**6. Indication of Mistake(s) and Correction(s)**

6.1 Data to be corrected:

Data as corrected:

6.2  Check this box if the above space is insufficient; in that case, indicate on an additional sheet the data to be corrected with the data as corrected.

---

**7. Signature or Seal**

7.1 Name of the natural person who signs or whose seal is used:

7.2 Check the appropriate box according to whether the signature is given, or the seal is used, by or on behalf of the

7.2.1  holder and/or applicant.

7.2.2  representative.

7.3 Date of signature or of sealing:

---

<sup>4</sup> To be left blank if the power of attorney has not, or has not yet, been allotted a serial number or if the serial number is not yet known to the holder and/or applicant or the representative.

7.4 Signature or seal:

---

**8. Fee**

8.1 Currency and amount of the fee paid in connection with the present request for correction:

8.2 Method of payment:

---

**9. Additional Sheets and Attachments**

Check this box if additional sheets and/or attachments are enclosed and indicate the total number of such sheets and/or attachments:

---

**MODEL INTERNATIONAL FORM No. 8****REQUEST FOR THE RENEWAL OF A REGISTRATION**

submitted to the Office of .....

FOR OFFICE USE ONLY
---------------------

Reference number of holder <sup>1</sup> :	.....
Reference number of representative <sup>1</sup> :	.....

**1. Indication That a Renewal is Sought**

The renewal of the registration identified in the present request is hereby requested.

**2. Registration Concerned**

2.1 Registration number:

2.2 Filing date of the application which resulted in the registration:

Registration date:

---

<sup>1</sup> The reference number allotted by the holder and/or the reference number allotted by the representative to the present request for renewal may be indicated in this space.



**3. Holder(s)**

3.1 If the holder is a natural person, the person's

(a) family or principal name<sup>2</sup>:

(b) given or secondary name(s)<sup>2</sup>:

3.2 If the holder is a legal entity, the entity's full official designation:

3.3 Address (including postal code and country):

Telephone number(s):  
(with the area code)

Telefacsimile number(s):  
(with the area code)

E-mail address:

3.4  Check this box if there is more than one holder; in that case, list them on an additional sheet and indicate, in respect of each of them, the data referred to in items 3.1 or 3.2 and 3.3.

---

**4. Representative of the Holder**

4.1 Name:

4.2 Address (including postal code and country):

Telephone number(s):  
(with the area code)

Telefacsimile number(s):  
(with the area code)

E-mail address:

4.3 Serial number of the power of attorney<sup>3</sup>:

---

<sup>2</sup> The names to be indicated under (a) and (b) are those which are recorded in respect of the registration to which the present request relates.

<sup>3</sup> To be left blank if the power of attorney has not, or has not yet, been allotted a serial number or if the serial number is not yet known to the holder or the representative.

**5. Address for Service of the Holder**

---

**6. Goods and/or Services<sup>4</sup>**

- 6.1  Renewal is requested for all the goods and/or services covered by the registration.
- 6.2  Renewal is only requested for the following goods and/or services covered by the registration<sup>5</sup>:
- 6.3  Renewal is requested for all the goods and/or services covered by the registration except the following<sup>6</sup>:
- 6.4  Check this box if the above space is insufficient and use an additional sheet.
- 

---

<sup>4</sup> Check only one of boxes 6.1, 6.2 or 6.3.

<sup>5</sup> The list of the goods and/or services for which renewal is requested must be presented in the same way as it appears in the registration (grouping according to the classes of the Nice Classification, starting with an indication of the number of the relevant class and, where the goods or services belong to more than one class, presentation in the order of the classes of that Classification).

<sup>6</sup> The goods and/or services for which renewal is not requested must, where they belong to more than one class of the Nice Classification, be grouped according to the classes of that Classification, starting with an indication of the number of the relevant class and presented in the order of the classes of the said Classification.

**7. Person, Other Than the Holder or the Representative of the Holder, who Files the Present Request for Renewal<sup>7</sup>**

Check this box if the present request for renewal is filed by a person other than the holder or the representative of the holder.

7.1 If the person is a natural person, the person's

(a) family or principal name:

(b) given or secondary name(s):

7.2 If the person is a legal entity, the entity's full official designation:

7.3 Address (including postal code and country):

Telephone number(s):  
(with the area code)

Telefacsimile number(s):  
(with the area code)

E-mail address:

---

**8. Signature or Seal**

8.1 Name of the natural person who signs or whose seal is used:

8.2 Check the appropriate box according to whether the signature is given, or the seal is used, by or on behalf of the

8.2.1  holder.

8.2.2  representative of the holder.

---

<sup>7</sup>

A person other than the holder or the representative of the holder may file a request for renewal only where the Contracting Party concerned allows it. Consequently, the present item cannot be completed if the Contracting Party whose Office is the Office identified on the first page of the present request for renewal does not allow a request for renewal to be filed by a person other than the holder or the representative of the holder.

8.2.3  person referred to in item 7.

8.3 Date of signature or of sealing:

8.4. Signature or seal:

---

**9. Fee**

9.1 Currency and amount of the fee paid in connection with the present request for renewal:

9.2 Method of payment:

---

**10. Additional Sheets and Attachments**

Check this box if additional sheets and/or attachments are enclosed and indicate the total number of such sheets and/or attachments:

---



**MODEL INTERNATIONAL FORM No. 9****REQUEST FOR  
RECORDAL OF LICENSE**

in respect of application(s) and/or registered mark(s),  
submitted to the Office of .....

FOR OFFICE USE ONLY

Reference indication of holder/applicant  
and/or licensee<sup>1</sup>: .....

Reference indication of representative of  
holder/applicant: .....

licensee<sup>1</sup>: .....

**1. Request**

- The recordal of the fact that the registration(s) and/or application(s) mentioned in the present request is (are) the subject of a license is hereby requested.

**2. Registration(s) and/or Application(s) Concerned**

The present request concerns the following registration(s) and/or application(s):

2.1 Registration and/or application number(s):

<sup>1</sup> Any reference indication allotted by the holder/applicant and/or licensee and/or any reference indication allotted by any of the representatives to the present request may be given in this space.

- 2.2  If the space under item 2.1 is not sufficient, check this box and provide the information on an additional sheet.
- 

### **3. Holder(s)/Applicant(s)**

- 3.1 If the holder/applicant is a natural person, the person's
- (a) family or principal name<sup>2</sup>:
  - (b) given or secondary name(s)<sup>2</sup>:
- 3.2 If the holder/applicant is a legal entity,
- (a) the entity's full official designation:
  - (b) the legal nature of the legal entity:
  - (c) the State, and, where applicable, the territorial unit within that State, under the law of which the legal entity is organized:
- 3.3 Address (including postal code and country):

Telephone number(s)<sup>3</sup>: Telefacsimile numbers(s)<sup>3</sup>: E-mail address:

- 3.4  Check this box if there is more than one holder/applicant; in that case, list the additional holders/applicants on a separate sheet and indicate, in respect of each of them, the data referred to in items 3.1 or 3.2 and 3.3.
- 

### **4. Representative of Holder(s)/Applicant(s)**

- 4.1 Name:
- 4.2 Address (including postal code and country):

---

<sup>2</sup> The names to be indicated under (a) and (b) are those which appear in the records of the Office in respect of the holder/applicant of the registration(s)/application(s) to which the present request relates.

<sup>3</sup> Even where the Office elects to request this information, the holder/applicant or its representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

Telephone number(s)<sup>4</sup>: Telefacsimile number(s)<sup>4</sup>: E-mail address:

4.3 Registration number, if registered with the Office:

4.4 Number allotted to the power of attorney<sup>5</sup>:

---

**5. Address for Service of Holder(s)/Applicant(s)<sup>6</sup>**

---

**6. Licensee**

6.1 If the licensee is a natural person, the person's

(a) family or principal name:

(b) given or secondary name(s):

6.2 If the licensee is a legal entity,

(a) the entity's full official designation:

(b) the legal nature of the legal entity:

(c) the State, and, where applicable, the territorial unit within that State, under the law of which the legal entity is organized:

6.3 Address (including postal code and country):

---

<sup>4</sup> Even where the Office elects to request this information, the holder/applicant or its representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

<sup>5</sup> Leave blank if the power of attorney has not, or has not yet, been allotted a number or if the number is not known to the holder/applicant or the representative.

<sup>6</sup> According to Article 4(2)(b), an address for service must be indicated in the space available under the title of item 5 where the holder/applicant does not have, or has not indicated, a domicile or a real and effective industrial or commercial establishment on the territory of the Contracting Party whose Office is the Office named on the first page of the present request, except where a representative is indicated in item 4.



Telephone number(s)<sup>7</sup>: Telefacsimile numbers(s)<sup>7</sup>: E-mail address:

6.4 State of nationality of the licensee:

6.5 State of domicile of the licensee:

6.6 State of real and effective industrial or commercial establishment of the licensee:

6.7  Check this box if there is more than one licensee; in that case, list each additional licensee on a separate sheet and indicate, in respect of each of them, the data referred to in items 6.1 to 6.6.

---

## 7. Representative of Licensee

7.1 Name:

7.2 Address (including postal code and country):

Telephone number(s)<sup>8</sup>: Telefacsimile number(s)<sup>8</sup>: E-mail address:

7.3 Registration number, if registered with the Office:

7.4 Number allotted to the power of attorney<sup>9</sup>:

---

<sup>7</sup> Even where the Office elects to request this information, the licensee or its representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

<sup>8</sup> Even where the Office elects to request this information, the licensee or its representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

<sup>9</sup> Leave blank if the power of attorney has not, or has not yet, been allotted a number or if the number is not known to the licensee or its representative.

**8. Address for Service of Licensee<sup>10</sup>**

---

**9. Goods and/or Services for Which the License Is Granted<sup>11</sup>**

- 9.1  The license is granted for all the goods and/or services listed in the registration(s) and/or application(s) referred to in item 2.
- 9.2  Only one registration and/or application is mentioned in item 2 and the license is only granted for some of the goods and/or services listed in that registration or application. The following goods and/or services are covered by the license:
- 9.3  More than one registration and/or application is mentioned in item 2, and in respect of at least one of them, the license covers less than all the goods and/or services listed. In this case, indicate on an additional sheet, separately in respect of each registration and/or applications, whether the license covers all the goods and/or services or only some of them.
- 

**10. Kind of License<sup>11</sup>**

- 10.1  The license is an exclusive license.
- 10.2  The license is a sole license.
- 10.3  The license is a non-exclusive license.
- 10.4  The license concerns only the following part of the territory covered by the registration:
- 

---

<sup>10</sup> According to Article 4(2)(b), an address for service must be indicated in the space available under the title of item 8 where the licensee does not have, or has not indicated, a domicile or a real and effective industrial or commercial establishment on the territory of the Contracting Party whose Office is the Office named on the first page of the present request, except where a representative is indicated in item 7.

<sup>11</sup> Check the appropriate boxes.

**11. Time Duration of the License**

11.1  The license is limited in time and granted

from .....to .....

11.1.1  The license is subject to automatic extension.

11.2  The license is granted for an unlimited duration.

---

**12. Signature or Seal<sup>12</sup>**

12.1 Name of the natural person who signs or whose seal is used:

12.2 Check the appropriate box according to whether the signature is given, or the seal is used, by or on behalf of the

12.2.1  holder and/or applicant.

12.2.2  licensee.

12.2.3  representative.

12.3 Date of signature or of sealing:

12.4 Signature or seal:

---

**13. Fee**

13.1 Currency and amount of the fee paid in connection with the present request:

13.2 Method of payment:

---

---

<sup>12</sup> If there is more than one person signing or whose seal is used, all of the indications under sub-items 12.1 to 12.4 should be given on an additional sheet.

**14. Additional Sheets**

- Check this box if additional sheets are enclosed and indicate the total number of such sheets:
-



**MODEL INTERNATIONAL FORM No. 10****STATEMENT OF LICENSE**

in respect of application(s) and/or registered mark(s),  
submitted to the Office of .....

FOR OFFICE USE ONLY

Reference indication of holder/applicant  
and/or licensee<sup>1</sup>: .....

Reference indication of representative of  
holder/applicant: .....

licensee<sup>1</sup>: .....

**1. Statement**

The holder(s)/applicant(s) and licensee(s) hereby state that the registration(s) and/or application(s) identified below is (are) the subject of a license.

**2. Registration(s) and/or Application(s) Concerned**

The present statement concerns the following registration(s) and/or application(s):

2.1 Registration and/or application number(s):

<sup>1</sup> Any reference indication allotted by the holder/applicant and/or licensee and/or any reference indication allotted by any of the representatives to the present request may be given in this space.

- 2.2  If the space under item 2.1 is not sufficient, check this box and provide the information on an additional sheet.
- 

### 3. Holder(s)/Applicant(s)

- 3.1 If the holder/applicant is a natural person, the person's
- (a) family or principal name<sup>2</sup>:
  - (b) given or secondary name(s)<sup>2</sup>:
- 3.2 If the holder/applicant is a legal entity,
- (a) the entity's full official designation:
  - (b) the legal nature of the legal entity:
  - (c) the State, and, where applicable, the territorial unit within that State, under the law of which the legal entity is organized:
- 3.3 Address (including postal code and country):

Telephone number(s)<sup>3</sup>: Telefacsimile number(s)<sup>3</sup>: E-mail address:

- 3.4  Check this box if there is more than one holder/applicant; in that case, list the additional holders/applicants on a separate sheet and indicate, in respect of each of them, the data referred to in items 3.1 or 3.2 and 3.3.
- 

### 4. Representative of Holder(s)/Applicant(s)

- 4.1 Name:
- 4.2 Address (including postal code and country):

---

<sup>2</sup> The names to be indicated under (a) and (b) are those which appear in the records of the Office in respect of the holder/applicant of the registration(s)/application(s) to which the present request relates.

<sup>3</sup> Even where the Office elects to request this information, the holder/applicant or its representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

Telephone number(s)<sup>4</sup>: Telefacsimile number(s)<sup>4</sup>: E-mail address:

4.3 Registration number, if registered with the Office:

4.4 Number allotted to the power of attorney:

---

## 5. Licensee

5.1 If the licensee is a natural person, the person's

(a) family or principal name:

(b) given or secondary name(s):

5.2 If the licensee is a legal entity,

(a) the entity's full official designation:

(b) the legal nature of the legal entity:

(c) the State, and, where applicable, the territorial unit within that State, under the law of which the legal entity is organized:

5.3 Address (including postal code and country):

Telephone number(s)<sup>5</sup>: Telefacsimile number(s)<sup>5</sup>: E-mail address:

5.4 State of nationality of the licensee:

5.5 State of domicile of the licensee:

5.6 State of real and effective industrial or commercial establishment of the licensee:

---

<sup>4</sup> Even where the Office elects to request this information, the holder/applicant or its representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

<sup>5</sup> Even where the Office elects to request this information, the licensee or its representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.



- 5.7  Check this box if there is more than one licensee; in that case, list each additional licensee on a separate sheet and indicate, in respect of each of them, the data referred to in items 5.1 to 5.6.
- 

## 6. Representative of Licensee

- 6.1 Name:
- 6.2 Address (including postal code and country):

Telephone number(s)<sup>6</sup>: Telefacsimile number(s)<sup>6</sup>: E-mail address:

- 6.3 Registration number, if registered with the Office:
- 6.4 Number allotted to the power of attorney<sup>7</sup>:
- 

## 7. Goods and/or Services for Which the License Is Granted<sup>8</sup>

- 7.1  The license is granted for all the goods and/or services listed in the registration(s) and/or application(s) referred to in item 2.
- 7.2  Only one registration or application is mentioned in item 2 and the license is only granted for some of the goods and/or services listed in that registration or application. The following goods and/or services are covered by the license:
- 7.3  More than one registration and/or application is mentioned in item 2, and in respect of at least one of them, the license covers less than all the goods and/or services listed. In this case, indicate on an additional sheet, separately in respect of each registration and/or applications, whether the license covers all the goods and/or services or only some of them.
- 

<sup>6</sup> Even where the Office elects to request this information, the licensee or its representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

<sup>7</sup> Leave blank if the power of attorney has not, or has not yet, been allotted a number or if the number is not known to the licensee or the representative.

<sup>8</sup> Check the appropriate boxes.

**8. Kind of License<sup>8</sup>**

- 8.1  The license is an exclusive license.
- 8.2  The license is a sole license.
- 8.3  The license is a non-exclusive license.
- 8.4  The license concerns only the following part of the territory covered by the registration:
- 

**9. Time Period of License<sup>8</sup>**

- 9.1  The license is limited in time and granted  
from .....to .....
- 9.1.1  The license is subject to automatic extension.
- 9.2  The license is granted for an unlimited time.
- 

**10. Signatures or Seals<sup>9</sup>**

- 10.1 Signature(s) or seal(s) of the holder(s)/applicant(s):
- 10.1.1 Name of the holder/applicant or, if the holder/applicant is a legal entity,  
name of the person who acts on behalf of the holder/applicant
- 10.1.2 Date of signature or of sealing:
- 10.1.3 Signature or seal:

---

<sup>8</sup> Check the appropriate boxes.

<sup>9</sup> If there is more than one person signing or whose seal is used, all of the indications under sub-items 10.1 to 10.4 should be given on an additional sheet.

## 10.2 Signature(s) or seal(s) of the licensee(s):

10.2.1 Name of the licensee or, if the licensee is a legal entity, name of the person who acts on behalf of the licensee:

10.2.2 Date of signature or of sealing:

10.2.3 Signature or seal:

## 10.3 Signature or seal of the representative of the holder(s)/applicant(s):

10.3.1 Name of the natural person who signs or whose seal is used:

10.3.2 Date of signature or of sealing:

10.3.3 Signature or seal:

## 10.4 Signature or seal of the representative of the licensee(s):

10.4.1 Name of the natural person who signs or whose seal is used:

10.4.2 Date of signature or of sealing:

10.4.3 Signature or seal:

---

**11. Additional Sheets** Check this box if additional sheets are enclosed and indicate the total number of such sheets:

---

**MODEL INTERNATIONAL FORM No. 11****STATEMENT OF AMENDMENT OF LICENSE**

in respect of application(s) and/or registered mark(s),  
submitted to the Office of .....

FOR OFFICE USE ONLY

Reference indication of holder/applicant  
and/or licensee<sup>1</sup>: .....

Reference indication of representative of  
holder/applicant: .....

licensee<sup>1</sup>: .....

**1. Statement**

The holder(s)/applicant(s) and licensee(s) hereby state that the registration(s) and/or application(s) identified below is (are) the subject of an amendment of license.

**2. Registration(s) and/or Application(s) Concerned**

The present statement concerns the following registration(s) and/or application(s):

<sup>1</sup> Any reference indication allotted by the holder/applicant and/or licensee and/or any reference indication allotted by any of the representatives to the present request may be given in this space.

2.1 Registration and/or application number(s):

2.2  If the space under item 2.1 is not sufficient, check this box and provide the information on an additional sheet.

---

### 3. **Holder(s)/Applicant(s)**

3.1 If the holder/applicant is a natural person, the person's

(a) family or principal name<sup>2</sup>:

(b) given or secondary name(s)<sup>2</sup>:

3.2 If the holder/applicant is a legal entity,

(a) the entity's full official designation:

(b) the legal nature of the legal entity:

(c) the State, and, where applicable, the territorial unit within that State, under the law of which the legal entity is organized:

3.3 Address (including postal code and country):

Telephone number(s)<sup>3</sup>: Telefacsimile number(s)<sup>3</sup>: E-mail address:

3.4  Check this box if there is more than one holder/applicant; in that case, list the additional holders/applicants on a separate sheet and indicate, in respect of each of them, the data referred to in items 3.1 or 3.2 and 3.3.

---

### 4. **Representative of Holder(s)/Applicant(s)**

4.1 Name:

4.2 Address (including postal code and country):

---

<sup>2</sup> The names to be indicated under (a) and (b) are those which appear in the records of the Office in respect of the holder/applicant of the registration(s)/application(s) to which the present request relates.

<sup>3</sup> Even where the Office elects to request this information, the holder/applicant or its representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

Telephone number(s)<sup>4</sup>: Telefacsimile number(s)<sup>4</sup>: E-mail address:

4.3 Registration number, if registered with the Office:

4.4 Number allotted to the power of attorney:

---

## 5. Licensee

5.1 If the licensee is a natural person, the person's

(a) family or principal name:

(b) given or secondary name(s):

5.2 If the licensee is a legal entity,

(a) the entity's full official designation:

(b) the legal nature of the legal entity:

(c) the State, and, where applicable, the territorial unit within that State, under the law of which the legal entity is organized:

5.3 Address (including postal code and country):

Telephone number(s)<sup>5</sup>: Telefacsimile number(s)<sup>5</sup>: E-mail address:

5.4 State of nationality of the licensee:

5.5 State of domicile of the licensee:

5.6 State of real and effective industrial or commercial establishment of the licensee:

---

<sup>4</sup> Even where the Office elects to request this information, the holder/applicant or its representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

<sup>5</sup> Even where the Office elects to request this information, the licensee or its representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

- 5.7  Check this box if there is more than one licensee; in that case, list each additional licensee on a separate sheet and indicate, in respect of each of them, the data referred to in items 5.1 to 5.6.
- 

## 6. Representative of Licensee

6.1 Name:

6.2 Address (including postal code and country):

Telephone number(s)<sup>6</sup>: Telefacsimile number(s)<sup>6</sup>: E-mail address:

6.3 Registration number, if registered with the Office:

6.4 Number allotted to the power of attorney<sup>7</sup>:

---

## 7. Goods and/or Services for Which the License Is Amended

The nature and scope of the amendment is indicated on a separate sheet.

---

## 8. Kind of Amended License<sup>8</sup>

- 8.1  The amended license is an exclusive license.
- 8.2  The amended license is a sole license.
- 8.3  The amended license is a non-exclusive license.
- 8.4  The amended license concerns only the following part of the territory covered by the registration:
- 

<sup>6</sup> Even where the Office elects to request this information, the licensee or its representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

<sup>7</sup> Leave blank if the power of attorney has not, or has not yet, been allotted a number or if the number is not known to the licensee or the representative.

<sup>8</sup> Check the appropriate boxes.

**9. Time Period of License<sup>8</sup>**

9.1  The amended license is limited in time and granted

from .....to .....

9.1.1  The amended license is subject to automatic extension.

9.2  The amended license is granted for an unlimited time.

---

**10. Signatures or Seals<sup>9</sup>**

10.1 Signature(s) or seal(s) of the holder(s)/applicant(s):

10.1.1 Name of the holder/applicant or, if the holder/applicant is a legal entity, name of the person who acts on behalf of the holder/applicant

10.1.2 Date of signature or of sealing:

10.1.3 Signature or seal:

10.2 Signature(s) or seal(s) of the licensee(s):

10.2.1 Name of the licensee or, if the licensee is a legal entity, name of the person who acts on behalf of the licensee:

10.2.2 Date of signature or of sealing:

10.2.3 Signature or seal:

10.3 Signature or seal of the representative of the holder(s)/applicant(s):

10.3.1 Name of the natural person who signs or whose seal is used:

10.3.2 Date of signature or of sealing:

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<sup>9</sup> If there is more than one person signing or whose seal is used, all of the indications under sub-items 10.1 to 10.4 should be given on an additional sheet.



10.3.3 Signature or seal:

10.4 Signature or seal of the representative of the licensee(s):

10.4.1 Name of the natural person who signs or whose seal is used:

10.4.2 Date of signature or of sealing:

10.4.3 Signature or seal:

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**11. Additional Sheets**

Check this box if additional sheets are enclosed and indicate the total number of such sheets:

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**MODEL INTERNATIONAL FORM No. 12****STATEMENT OF CANCELLATION OF LICENSE**

in respect of application(s) and/or registered mark(s),  
submitted to the Office of .....

FOR OFFICE USE ONLY

Reference indication of holder/applicant  
and/or licensee<sup>1</sup>: .....

Reference indication of representative of  
holder/applicant: .....

licensee<sup>1</sup>: .....

**1. Statement**

The holder(s)/applicant(s) and licensee(s) hereby state that the registration(s) and/or application(s) identified below is (are) the subject of a cancellation of license.

**2. Registration(s) and/or Application(s) Concerned**

The present statement concerns the following registration(s) and/or application(s):

2.1 Registration and/or application number(s):

<sup>1</sup> Any reference indication allotted by the holder/applicant and/or licensee and/or any reference indication allotted by any of the representatives to the present request may be given in this space.

- 2.2  If the space under item 2.1 is not sufficient, check this box and provide the information on an additional sheet.
- 

### 3. Holder(s)/Applicant(s)

- 3.1 If the holder/applicant is a natural person, the person's
- (a) family or principal name<sup>2</sup>:
  - (b) given or secondary name(s)<sup>2</sup>:
- 3.2 If the holder/applicant is a legal entity,
- (a) the entity's full official designation:
  - (b) the legal nature of the legal entity:
  - (c) the State, and, where applicable, the territorial unit within that State, under the law of which the legal entity is organized:
- 3.3 Address (including postal code and country):

Telephone number(s)<sup>3</sup>: Telefacsimile number(s)<sup>3</sup>: E-mail address:

- 3.4  Check this box if there is more than one holder/applicant; in that case, list the additional holders/applicants on a separate sheet and indicate, in respect of each of them, the data referred to in items 3.1 or 3.2 and 3.3.
- 

### 4. Representative of Holder(s)/Applicant(s)

- 4.1 Name:
- 4.2 Address (including postal code and country):

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<sup>2</sup> The names to be indicated under (a) and (b) are those which appear in the records of the Office in respect of the holder/applicant of the registration(s)/application(s) to which the present request relates.

<sup>3</sup> Even where the Office elects to request this information, the holder/applicant or its representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

Telephone number(s)<sup>4</sup>: Telefacsimile number(s)<sup>4</sup>: E-mail address:

4.3 Registration number, if registered with the Office:

4.4 Number allotted to the power of attorney:

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## 5. Licensee

5.1 If the licensee is a natural person, the person's

(a) family or principal name:

(b) given or secondary name(s):

5.2 If the licensee is a legal entity,

(a) the entity's full official designation:

(b) the legal nature of the legal entity:

(c) the State, and, where applicable, the territorial unit within that State, under the law of which the legal entity is organized:

5.3 Address (including postal code and country):

Telephone number(s)<sup>5</sup>: Telefacsimile number(s)<sup>5</sup>: E-mail address:

5.4 State of nationality of the licensee:

5.5 State of domicile of the licensee:

5.6 State of real and effective industrial or commercial establishment of the licensee:

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<sup>4</sup> Even where the Office elects to request this information, the holder/applicant or its representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

<sup>5</sup> Even where the Office elects to request this information, the licensee or its representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

- 5.7  Check this box if there is more than one licensee; in that case, list each additional licensee on a separate sheet and indicate, in respect of each of them, the data referred to in items 5.1 to 5.6.
- 

## 6. Representative of Licensee

6.1 Name:

6.2 Address (including postal code and country):

Telephone number(s)<sup>6</sup>: Telefacsimile number(s)<sup>6</sup>: E-mail address:

6.3 Registration number, if registered with the Office:

6.4 Number allotted to the power of attorney<sup>7</sup>:

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## 7. Goods and/or Services for Which the License Is Cancelled

The nature and scope of the cancellation is indicated on a separate sheet.

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## 8. Signatures or Seals<sup>8</sup>

8.1 Signature(s) or seal(s) of the holder(s)/applicant(s):

8.1.1 Name of the holder/applicant or, if the holder/applicant is a legal entity, name of the person who acts on behalf of the holder/applicant

8.1.2 Date of signature or of sealing:

8.1.3 Signature or seal:

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<sup>6</sup> Even where the Office elects to request this information, the licensee or its representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

<sup>7</sup> Leave blank if the power of attorney has not, or has not yet, been allotted a number or if the number is not known to the licensee or the representative.

<sup>8</sup> If there is more than one person signing or whose seal is used, all of the indications under sub-items 8.1 to 8.4 should be given on an additional sheet.

8.2 Signature(s) or seal(s) of the licensee(s):

8.2.1 Name of the licensee or, if the licensee is a legal entity, name of the person who acts on behalf of the licensee:

8.2.2 Date of signature or of sealing:

8.2.3 Signature or seal:

8.3 Signature or seal of the representative of the holder(s)/applicant(s):

8.3.1 Name of the natural person who signs or whose seal is used:

8.3.2 Date of signature or of sealing:

8.3.3 Signature or seal:

8.4 Signature or seal of the representative of the licensee(s):

8.4.1 Name of the natural person who signs or whose seal is used:

8.4.2 Date of signature or of sealing:

8.4.3 Signature or seal:

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**9. Additional Sheets**

Check this box if additional sheets are enclosed and indicate the total number of such sheets:

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**TEXT OF THE BASIC PROPOSAL AS PRESENTED TO THE  
DIPLOMATIC CONFERENCE****REVISED TRADEMARK LAW TREATY**

## List of Articles

- Article 1: Abbreviated Expressions  
Article 2: Marks to Which the Treaty Applies  
Article 3: Application  
Article 4: Representation; Address for Service  
Article 5: Filing Date  
Article 6: Single Registration for Goods and/or Services in Several Classes  
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Article 8: Communications  
Article 9: Classification of Goods and/or Services  
Article 10: Changes in Names or Addresses  
Article 11: Change in Ownership  
Article 12: Correction of a Mistake  
Article 13: Duration and Renewal of Registration  
Article 14: Relief Measures in Case of Failure to Comply with Time Limits  
Article 15: Obligation to Comply with the Paris Convention  
Article 16: Service Marks  
Article 17: Request for Recordal of a License  
Article 18: Request for Amendment or Cancellation of the Recordal of a License  
Article 19: Effects of the Non-Recordal of a License  
Article 20: Indication of the License  
Article 21: Observations in Case of Intended Refusal  
Article 22: Regulations  
Article 23: Assembly  
Article 24: International Bureau  
Article 25: Revision and Amendment  
Article 26: Becoming Party to the Treaty  
Article 27: Application of the TLT 1994 and This Treaty  
Article 28: Entry into Force; Effective Date of Ratifications and Accessions  
Article 29: Reservations  
Article 30: Denunciation of the Treaty  
Article 31: Languages of the Treaty; Signature  
Article 32: Depositary



*Article I*  
*Abbreviated Expressions*

For the purposes of this Treaty, unless expressly stated otherwise:

- (i) “Office” means the agency entrusted by a Contracting Party with the registration of marks;
- (ii) “registration” means the registration of a mark by an Office;
- (iii) “application” means an application for registration;
- (iv) “communication” means any application, or any request, declaration, correspondence or other information relating to an application or a registration, which is filed with the Office;
- (v) references to a “person” shall be construed as references to both a natural person and a legal entity;
- (vi) “holder” means the person whom the register of marks shows as the holder of the registration;
- (vii) “register of marks” means the collection of data maintained by an Office, which includes the contents of all registrations and all data recorded in respect of all registrations, irrespective of the medium in which such data are stored;
- (viii) “procedure before the Office” means any procedure in proceedings before the Office with respect to an application or a registration;
- (ix) “Paris Convention” means the Paris Convention for the Protection of Industrial Property, signed at Paris on March 20, 1883, as revised and amended;
- (x) “Nice Classification” means the classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, signed at Nice on June 15, 1957, as revised and amended;
- (xi) “license” means a license for the use of a mark under the law of a Contracting Party;
- (xii) “licensee” means the person to whom the holder grants a license;
- (xiii) “Contracting Party” means any State or intergovernmental organization party to this Treaty;
- (xiv) “Assembly” means the Assembly referred to in Article 23;
- (xv) references to an “instrument of ratification” shall be construed as including references to instruments of acceptance and approval;

- (xvi) “Organization” means the World Intellectual Property Organization;
- (xvii) “International Bureau” means the International Bureau of the Organization;
- (xviii) “Director General” means the Director General of the Organization;
- (xix) “Regulations” means the Regulations under this Treaty that are referred to in Article 22;
- (xx) references to an “Article” or to a “paragraph”, “subparagraph” or “item” of an Article shall be construed as including references to the corresponding rule(s) under the Regulations;
- (xxi) “TLT 1994” means the Trademark Law Treaty done at Geneva on October 27, 1994.

*Article 2*  
*Marks to Which the Treaty Applies*

- (1) [*Nature of Marks*] Any Contracting Party shall apply this Treaty to marks consisting of signs that can be registered as marks under its law.
- (2) [*Kinds of Marks*]
  - (a) This Treaty shall apply to marks relating to goods (trademarks) or services (service marks) or both goods and services.
  - (b) This Treaty shall not apply to collective marks, certification marks and guarantee marks.

*Article 3*  
*Application*

- (1) [*Indications or Elements Contained in or Accompanying an Application; Fee*]
  - (a) Any Contracting Party may require that an application contain some or all of the following indications or elements:
    - (i) a request for registration;
    - (ii) the name and address of the applicant;
    - (iii) the name of a State of which the applicant is a national if he is the national of any State, the name of a State in which the applicant has his domicile, if any, and the name of a State in which the applicant has a real and effective industrial or commercial establishment, if any;

(iv) where the applicant is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;

(v) where the applicant has a representative, the name and address of that representative;

(vi) where an address for service is required under Article 4(2)(b), such address;

(vii) where the applicant wishes to take advantage of the priority of an earlier application, a declaration claiming the priority of that earlier application, together with indications and evidence in support of the declaration of priority that may be required pursuant to Article 4 of the Paris Convention;

(viii) where the applicant wishes to take advantage of any protection resulting from the display of goods and/or services in an exhibition, a declaration to that effect, together with indications in support of that declaration, as required by the law of the Contracting Party;

(ix) at least one representation of the mark, as prescribed in the Regulations;

(x) where applicable, a statement, as prescribed in the Regulations, indicating the type of mark as well as any specific requirements applicable to that type of mark, indicating that the applicant wishes that the mark be registered and published in the standard characters used by the Office or indicating that the applicant wishes to claim color as a distinctive feature of the mark;

(xi) a transliteration of the mark or of certain parts of the mark;

(xii) a translation of the mark or of certain parts of the mark;

(xiii) the names of the goods and/or services for which the registration is sought, grouped according to the classes of the Nice Classification, each group preceded by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;

(xiv) a declaration of intention to use the mark, as required by the law of the Contracting Party.

(b) The applicant may file, instead of or in addition to the declaration of intention to use the mark referred to in subparagraph (a)(xiv), a declaration of actual use of the mark and evidence to that effect, as required by the law of the Contracting Party.

(c) Any Contracting Party may require that, in respect of the application, fees be paid to the Office.

(2) [*Single Application for Goods and/or Services in Several Classes*] One and the same application may relate to several goods and/or services, irrespective of whether they belong to one class or to several classes of the Nice Classification.

(3) [*Actual Use*] Any Contracting Party may require that, where a declaration of intention to use has been filed under paragraph (1)(a)(xiv), the applicant furnish to the Office within a time limit fixed in its law, subject to the minimum time limit prescribed in the Regulations, evidence of the actual use of the mark, as required by the said law.

(4) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (3) and in Article 8 be complied with in respect of the application. In particular, the following may not be required in respect of the application throughout its pendency:

(i) the furnishing of any certificate of, or extract from, a register of commerce;

(ii) an indication of the applicant's carrying on of an industrial or commercial activity, as well as the furnishing of evidence to that effect;

(iii) an indication of the applicant's carrying on of an activity corresponding to the goods and/or services listed in the application, as well as the furnishing of evidence to that effect;

(iv) the furnishing of evidence to the effect that the mark has been registered in the register of marks of another Contracting Party or of a State party to the Paris Convention which is not a Contracting Party, except where the applicant claims the application of Article 6*quinquies* of the Paris Convention.

(5) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office in the course of the examination of the application where the Office may reasonably doubt the veracity of any indication or element contained in the application.

#### *Article 4*

##### *Representation; Address for Service*

###### (1) [*Representatives Admitted to Practice*]

(a) Any Contracting Party may require that a representative appointed for the purposes of any procedure before the Office

(i) have the right, under the applicable law, to practice before the Office in respect of applications and registrations;

(ii) provide, as his address, an address on a territory prescribed by the Contracting Party.

(b) An act, with respect to any procedure before the Office, by or in relation to a representative who complies with the requirements applied by the Contracting Party under subparagraph (a), shall have the effect of an act by or in relation to the applicant, holder or other interested person who appointed that representative.

(2) [*Mandatory Representation; Address for Service*]

(a) Any Contracting Party may require that, for the purposes of any procedure before the Office, an applicant, holder or other interested person who has neither a domicile nor a real and effective industrial or commercial establishment on its territory be represented by a representative.

(b) Any Contracting Party may, to the extent that it does not require representation in accordance with subparagraph (a), require that, for the purposes of any procedure before the Office, an applicant, holder or other interested person who has neither a domicile nor a real and effective industrial or commercial establishment on its territory have an address for service on that territory.

(3) [*Power of Attorney*]

(a) Whenever a Contracting Party allows or requires an applicant, a holder or any other interested person to be represented by a representative before the Office, it may require that the representative be appointed in a separate communication (hereinafter referred to as “power of attorney”) indicating the name of the applicant, the holder or the other person, as the case may be.

(b) The power of attorney may relate to one or more applications and/or registrations identified in the power of attorney or, subject to any exception indicated by the appointing person, to all existing and future applications and/or registrations of that person.

(c) The power of attorney may limit the powers of the representative to certain acts. Any Contracting Party may require that any power of attorney under which the representative has the right to withdraw an application or to surrender a registration contain an express indication to that effect.

(d) Where a communication is submitted to the Office by a person who refers to himself in the communication as a representative but where the Office is, at the time of the receipt of the communication, not in possession of the required power of attorney, the Contracting Party may require that the power of attorney be submitted to the Office within the time limit fixed by the Contracting Party, subject to the minimum time limit prescribed in the Regulations. Any Contracting Party may provide that, where the power of attorney has not been submitted to the Office within the time limit fixed by the Contracting Party, the communication by the said person shall have no effect.

(4) [*Reference to Power of Attorney*] Any Contracting Party may require that any communication made to the Office by a representative for the purposes of a procedure before the Office contain a reference to the power of attorney on the basis of which the representative acts.

(5) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (3) and (4) and in Article 8 be complied with in respect of the matters dealt with in those paragraphs.

(6) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in any communication referred to in paragraphs (3) and (4).

*Article 5*  
*Filing Date*

(1) [*Permitted Requirements*]

(a) Subject to subparagraph (b) and paragraph (2), a Contracting Party shall accord as the filing date of an application the date on which the Office received the following indications and elements in the language required under Article 8(2):

- (i) an express or implicit indication that the registration of a mark is sought;
- (ii) indications allowing the identity of the applicant to be established;
- (iii) indications allowing the applicant or his representative, if any, to be contacted by the Office;
- (iv) a sufficiently clear reproduction of the mark whose registration is sought;
- (v) the list of the goods and/or services for which the registration is sought;
- (vi) where Article 3(1)(a)(xiv) or (b) applies, the declaration referred to in Article 3(1)(a)(xiv) or the declaration and evidence referred to in Article 3(1)(b), respectively, as required by the law of the Contracting Party.

(b) Any Contracting Party may accord as the filing date of the application the date on which the Office received only some, rather than all, of the indications and elements referred to in subparagraph (a) or received them in a language other than the language required under Article 8(2).

(2) [*Permitted Additional Requirement*]

(a) A Contracting Party may provide that no filing date shall be accorded until the required fees are paid.

(b) A Contracting Party may apply the requirement referred to in subparagraph (a) only if it applied such requirement at the time of becoming party to this Treaty.

(3) [*Corrections and Time Limits*] The modalities of, and time limits for, corrections under paragraphs (1) and (2) shall be fixed in the Regulations.

(4) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) be complied with in respect of the filing date.

*Article 6*  
*Single Registration for Goods and/or Services in Several Classes*

Where goods and/or services belonging to several classes of the Nice Classification have been included in one and the same application, such an application shall result in one and the same registration.

*Article 7*  
*Division of Application and Registration*

(1) [*Division of Application*]

(a) Any application listing several goods and/or services (hereinafter referred to as “initial application”) may,

- (i) at least until the decision by the Office on the registration of the mark,
- (ii) during any opposition proceedings against the decision of the Office to register the mark,
- (iii) during any appeal proceedings against the decision on the registration of the mark,

be divided by the applicant or at his request into two or more applications (hereinafter referred to as “divisional applications”) by distributing among the latter the goods and/or services listed in the initial application. The divisional applications shall preserve the filing date of the initial application and the benefit of the right of priority, if any.

(b) Any Contracting Party shall, subject to subparagraph (a), be free to establish requirements for the division of an application, including the payment of fees.

(2) [*Division of Registration*] Paragraph (1) shall apply, *mutatis mutandis*, with respect to a division of a registration. Such a division shall be permitted

- (i) during any proceedings in which the validity of the registration is challenged before the Office by a third party,
- (ii) during any appeal proceedings against a decision taken by the Office during the former proceedings,

provided that a Contracting Party may exclude the possibility of the division of registrations if its law allows third parties to oppose the registration of a mark before the mark is registered.

*Article 8*  
*Communications*

(1) [*Means of Transmittal and Form of Communications*] Any Contracting Party may choose the means of transmittal of communications and whether it accepts communications on paper, communications in electronic form or any other form of communication.

(2) [*Language of Communications*]

(a) Any Contracting Party may require that any communication be in a language admitted by the Office. Where the Office admits more than one language, the applicant, holder or other interested person may be required to comply with any other language requirement applicable with respect to the Office, provided that no indication or element of the communication may be required to be in more than one language.

(b) No Contracting Party may require the attestation, notarization, authentication, legalization or any other certification of any translation of a communication other than as provided under this Treaty.

(c) Where an Office does not require a communication to be in a language admitted by the Office, it may require that a translation of that communication by an official translator or a representative, into a language admitted by the Office, be supplied within a reasonable time limit.

(3) [*Signature of Communications on Paper*]

(a) Any Contracting Party may require that a communication on paper be signed by the applicant, holder or other interested person. Where a Contracting Party requires a communication on paper to be signed, that Contracting Party shall accept any signature that complies with the requirements prescribed in the Regulations.

(b) No Contracting Party may require the attestation, notarization, authentication, legalization or other certification of any signature except, where the law of the Contracting Party so provides, if the signature concerns the surrender of a registration.

(c) Notwithstanding subparagraph (b), a Contracting Party may require that evidence be filed with the Office where the Office may reasonably doubt the authenticity of any signature of a communication on paper.

(4) [*Communications Filed in Electronic Form or by Electronic Means of Transmittal*] Where a Contracting Party permits the filing of communications in electronic form or by electronic means of transmittal, it may require that any such communications comply with the requirements prescribed in the Regulations.

(5) [*Presentation of a Communication*] Any Contracting Party shall accept the presentation of a communication the content of which corresponds to the relevant Model International Form, if any, provided for in the Regulations.



(6) [*Prohibition of Other Requirements*] No Contracting Party may demand that, in respect of paragraphs (1) to (5), requirements other than those referred to in this Article be complied with.

*Article 9*  
*Classification of Goods and/or Services*

(1) [*Indications of Goods and/or Services*] Each registration and any publication effected by an Office which concerns an application or registration and which indicates goods and/or services shall indicate the goods and/or services by their names, grouped according to the classes of the Nice Classification, and each group shall be preceded by the number of the class of that Classification to which that group of goods or services belongs and shall be presented in the order of the classes of the said Classification.

(2) [*Goods or Services in the Same Class or in Different Classes*]

(a) Goods or services may not be considered as being similar to each other on the ground that, in any registration or publication by the Office, they appear in the same class of the Nice Classification.

(b) Goods or services may not be considered as being dissimilar from each other on the ground that, in any registration or publication by the Office, they appear in different classes of the Nice Classification.

*Article 10*  
*Changes in Names or Addresses*

(1) [*Changes in the Name or Address of the Holder*]

(a) Where there is no change in the person of the holder but there is a change in his name and/or address, each Contracting Party shall accept that a request for the recordal of the change by the Office in its register of marks be made by the holder in a communication indicating the registration number of the registration concerned and the change to be recorded.

(b) Any Contracting Party may require that the request indicate

(i) the name and address of the holder;

(ii) where the holder has a representative, the name and address of that representative;

(iii) where the holder has an address for service, such address.

(c) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(d) A single request shall be sufficient even where the change relates to more than one registration, provided that the registration numbers of all registrations concerned are indicated in the request.

(2) [*Change in the Name or Address of the Applicant*] Paragraph (1) shall apply, *mutatis mutandis*, where the change concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or his representative, the request otherwise identifies that application as prescribed in the Regulations.

(3) [*Change in the Name or Address of the Representative or in the Address for Service*] Paragraph (1) shall apply, *mutatis mutandis*, to any change in the name or address of the representative, if any, and to any change relating to the address for service, if any.

(4) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (3) and in Article 8 be complied with in respect of the request referred to in this Article. In particular, the furnishing of any certificate concerning the change may not be required.

(5) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in the request.

#### *Article 11* *Change in Ownership*

(1) [*Change in the Ownership of a Registration*]

(a) Where there is a change in the person of the holder, each Contracting Party shall accept that a request for the recordal of the change by the Office in its register of marks be made by the holder or by the person who acquired the ownership (hereinafter referred to as “new owner”) in a communication indicating the registration number of the registration concerned and the change to be recorded.

(b) Where the change in ownership results from a contract, any Contracting Party may require that the request indicate that fact and be accompanied, at the option of the requesting party, by one of the following:

(i) a copy of the contract, which copy may be required to be certified, by a notary public or any other competent public authority, as being in conformity with the original contract;

(ii) an extract of the contract showing the change in ownership, which extract may be required to be certified, by a notary public or any other competent public authority, as being a true extract of the contract;

(iii) an uncertified certificate of transfer drawn up in the form and with the content as prescribed in the Regulations and signed by both the holder and the new owner;

(iv) an uncertified transfer document drawn up in the form and with the content as prescribed in the Regulations and signed by both the holder and the new owner.

(c) Where the change in ownership results from a merger, any Contracting Party may require that the request indicate that fact and be accompanied by a copy of a document, which document originates from the competent authority and evidences the merger, such as a copy of an extract from a register of commerce, and that that copy be certified by the authority which issued the document or by a notary public or any other competent public authority, as being in conformity with the original document.

(d) Where there is a change in the person of one or more but not all of several co-holders and such change in ownership results from a contract or a merger, any Contracting Party may require that any co-holder in respect of which there is no change in ownership give his express consent to the change in ownership in a document signed by him.

(e) Where the change in ownership does not result from a contract or a merger but from another ground, for example, from operation of law or a court decision, any Contracting Party may require that the request indicate that fact and be accompanied by a copy of a document evidencing the change and that that copy be certified as being in conformity with the original document by the authority which issued the document or by a notary public or any other competent public authority.

(f) Any Contracting Party may require that the request indicate

(i) the name and address of the holder;

(ii) the name and address of the new owner;

(iii) the name of a State of which the new owner is a national if he is the national of any State, the name of a State in which the new owner has his domicile, if any, and the name of a State in which the new owner has a real and effective industrial or commercial establishment, if any;

(iv) where the new owner is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;

(v) where the holder has a representative, the name and address of that representative;

(vi) where the holder has an address for service, such address;

(vii) where the new owner has a representative, the name and address of that representative;

(viii) where the new owner is required to have an address for service under Article 4(2)(b), such address.

(g) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(h) A single request shall be sufficient even where the change relates to more than one registration, provided that the holder and the new owner are the same for each registration and that the registration numbers of all registrations concerned are indicated in the request.

(i) Where the change of ownership does not affect all the goods and/or services listed in the holder's registration, and the applicable law allows the recording of such change, the Office shall create a separate registration referring to the goods and/or services in respect of which the ownership has changed.

(2) [*Change in the Ownership of an Application*] Paragraph (1) shall apply, *mutatis mutandis*, where the change in ownership concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or his representative, the request otherwise identifies that application as prescribed in the Regulations.

(3) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) and in Article 8 be complied with in respect of the request referred to in this Article. In particular, the following may not be required:

(i) subject to paragraph (1)(c), the furnishing of any certificate of, or extract from, a register of commerce;

(ii) an indication of the new owner's carrying on of an industrial or commercial activity, as well as the furnishing of evidence to that effect;

(iii) an indication of the new owner's carrying on of an activity corresponding to the goods and/or services affected by the change in ownership, as well as the furnishing of evidence to either effect;

(iv) an indication that the holder transferred, entirely or in part, his business or the relevant goodwill to the new owner, as well as the furnishing of evidence to either effect.

(4) [*Evidence*] Any Contracting Party may require that evidence, or further evidence where paragraph (1)(c) or (e) applies, be furnished to the Office where that Office may reasonably doubt the veracity of any indication contained in the request or in any document referred to in the present Article.

*Article 12*  
*Correction of a Mistake*

(1) [*Correction of a Mistake in Respect of a Registration*]

(a) Each Contracting Party shall accept that the request for the correction of a mistake which was made in the application or other request communicated to the Office and which mistake is reflected in its register of marks and/or any publication by the Office be made by the holder in a communication indicating the registration number of the registration concerned, the mistake to be corrected and the correction to be entered.

(b) Any Contracting Party may require that the request indicate

- (i) the name and address of the holder;
- (ii) where the holder has a representative, the name and address of that representative;
- (iii) where the holder has an address for service, such address.

(c) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(d) A single request shall be sufficient even where the correction relates to more than one registration of the same person, provided that the mistake and the requested correction are the same for each registration and that the registration numbers of all registrations concerned are indicated in the request.

(2) [*Correction of a Mistake in Respect of an Application*] Paragraph (1) shall apply, *mutatis mutandis*, where the mistake concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or his representative, the request otherwise identifies that application as prescribed in the Regulations.

(3) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) and in Article 8 be complied with in respect of the request referred to in this Article.

(4) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt that the alleged mistake is in fact a mistake.

(5) [*Mistakes Made by the Office*] The Office of a Contracting Party shall correct its own mistakes, *ex officio* or upon request, for no fee.

(6) [*Uncorrectable Mistakes*] No Contracting Party shall be obliged to apply paragraphs (1), (2) and (5) to any mistake which cannot be corrected under its law.

*Article 13*  
*Duration and Renewal of Registration*

(1) [*Indications or Elements Contained in or Accompanying a Request for Renewal; Fee*]

(a) Any Contracting Party may require that the renewal of a registration be subject to the filing of a request and that such request contain some or all of the following indications:

- (i) an indication that renewal is sought;
- (ii) the name and address of the holder;
- (iii) the registration number of the registration concerned;
- (iv) at the option of the Contracting Party, the filing date of the application which resulted in the registration concerned or the registration date of the registration concerned;
- (v) where the holder has a representative, the name and address of that representative;
- (vi) where the holder has an address for service, such address;
- (vii) where the Contracting Party allows the renewal of a registration to be made for some only of the goods and/or services which are recorded in the register of marks and such a renewal is requested, the names of the recorded goods and/or services for which the renewal is requested or the names of the recorded goods and/or services for which the renewal is not requested, grouped according to the classes of the Nice Classification, each group preceded by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;
- (viii) where a Contracting Party allows a request for renewal to be filed by a person other than the holder or his representative and the request is filed by such a person, the name and address of that person.

(b) Any Contracting Party may require that, in respect of the request for renewal, a fee be paid to the Office. Once the fee has been paid in respect of the initial period of the registration or of any renewal period, no further payment may be required for the maintenance of the registration in respect of that period. Fees associated with the furnishing of a declaration and/or evidence of use shall not be regarded, for the purposes of this subparagraph, as payments required for the maintenance of the registration and shall not be affected by this subparagraph.

(c) Any Contracting Party may require that the request for renewal be presented, and the corresponding fee referred to in subparagraph (b) be paid, to the Office within the period fixed by the law of the Contracting Party, subject to the minimum periods prescribed in the Regulations.

(2) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraph (1) and in Article 8 be complied with in respect of the request for renewal. In particular, the following may not be required:

- (i) any reproduction or other identification of the mark;
- (ii) the furnishing of evidence to the effect that the mark has been registered, or that its registration has been renewed, in any other register of marks;
- (iii) the furnishing of a declaration and/or evidence concerning use of the mark.

(3) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office in the course of the examination of the request for renewal where the Office may reasonably doubt the veracity of any indication or element contained in the request for renewal.

(4) [*Prohibition of Substantive Examination*] No Office of a Contracting Party may, for the purposes of effecting the renewal, examine the registration as to substance.

(5) [*Duration*] The duration of the initial period of the registration, and the duration of each renewal period, shall be 10 years.

#### *Article 14*

##### *Relief Measures in Case of Failure to Comply with Time Limits*

(1) [*Relief Measure Before the Expiry of a Time Limit*] A Contracting Party may provide for the extension of a time limit for an action in a procedure before the Office in respect of an application or a registration, if a request to that effect is filed with the Office prior to the expiry of the time limit.

(2) [*Relief Measures After the Expiry of a Time Limit*] Where an applicant, holder or other interested person has failed to comply with a time limit (“the time limit concerned”) for an action in a procedure before the Office of a Contracting Party in respect of an application or a registration, the Contracting Party shall provide for one or more of the following relief measures, in accordance with the requirements prescribed in the Regulations, if a request to that effect is filed with the Office:

- (i) extension of the time limit concerned for the period prescribed in the Regulations;
- (ii) continued processing with respect to the application or registration;
- (iii) reinstatement of the rights of the applicant, holder or other interested person with respect to the application or registration if the Office finds that the failure to comply with the time limit concerned occurred in spite of due care required by the circumstances having been taken or, at the option of the Contracting Party, that the failure was unintentional.

(3) [*Exceptions*] No Contracting Party shall be required to provide for any of the relief measures referred to in paragraph (2) with respect to the exceptions prescribed in the Regulations.

(4) [*Fees*] Any Contracting Party may require that a fee be paid in respect of any of the relief measures referred to in paragraphs (1) and (2).

(5) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in this Article and in Article 8 be complied with in respect of any of the relief measures referred to in paragraph (2).

*Article 15*  
*Obligation to Comply with the Paris Convention*

Any Contracting Party shall comply with the provisions of the Paris Convention which concern marks.

*Article 16*  
*Service Marks*

Any Contracting Party shall register service marks and apply to such marks the provisions of the Paris Convention which concern trademarks.

*Article 17*  
*Request for Recordal of a License*

(1) [*Requirements Concerning the Request for Recordal*] Where the law of a Contracting Party provides for the recordal of a license with its Office, that Contracting Party may require that the request for recordal

(i) be filed in accordance with the requirements prescribed in the Regulations, and

(ii) be accompanied by the supporting documents prescribed in the Regulations.

(2) [*Fee*] Any Contracting Party may require that, in respect of the recordal of a license, a fee be paid to the Office.

(3) [*Single Request Relating to Several Registrations*] A single request shall be sufficient even where the license relates to more than one registration, provided that the registration numbers of all registrations concerned are indicated in the request, the holder and the licensee are the same for all registrations, and the request indicates the scope of the license in accordance with the Regulations with respect to all registrations.



(4) [*Prohibition of Other Requirements*]

(a) No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (3) and in Article 8 be complied with in respect of the recordal of a license with its Office. In particular, the following may not be required:

(i) the furnishing of the registration certificate of the mark which is the subject of the license;

(ii) the furnishing of the license contract or a translation of it;

(iii) an indication of the financial terms of the license contract.

(b) Subparagraph (a) is without prejudice to any obligations existing under the law of a Contracting Party concerning the disclosure of information for purposes other than the recording of the license in the register of marks.

(5) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in the request or in any document referred to in the Regulations.

(6) [*Requests Relating to Applications*] Paragraphs (1) to (5) shall apply, *mutatis mutandis*, to requests for recordal of a license for an application, where the law of a Contracting Party provides for such recordal.

*Article 18*

*Request for Amendment or Cancellation of the Recordal of a License*

(1) [*Requirements Concerning the Request*] Where the law of a Contracting Party provides for the recordal of a license with its Office, that Contracting Party may require that the request for amendment or cancellation of the recordal of a license

(i) be filed in accordance with the requirements prescribed in the Regulations, and

(ii) be accompanied by the supporting documents prescribed in the Regulations.

(2) [*Other Requirements*] Article 17(2) to (6) shall apply, *mutatis mutandis*, to requests for amendment or cancellation of the recordal of a license.

*Article 19*  
*Effects of the Non-Recordal of a License*

(1) [*Validity of the Registration and Protection of the Mark*] The non-recordal of a license with the Office or with any other authority of the Contracting Party shall not affect the validity of the registration of the mark which is the subject of the license or the protection of that mark.

(2) [*Certain Rights of the Licensee*] A Contracting Party may not require the recordal of a license as a condition for any right that the licensee may have under the law of that Contracting Party to join infringement proceedings initiated by the holder or to obtain, by way of such proceedings, damages resulting from an infringement of the mark which is the subject of the license.

(3) [*Use of a Mark Where License Is Not Recorded*] A Contracting Party may not require the recordal of a license as a condition for the use of a mark by a licensee to be deemed to constitute use by the holder in proceedings relating to the acquisition, maintenance and enforcement of marks.

*Article 20*  
*Indication of the License*

Where the law of a Contracting Party requires an indication that the mark is used under a license, full or partial non-compliance with that requirement shall not affect the validity of the registration of the mark which is the subject of the license or the protection of that mark, and shall not affect the application of Article 19(3).

*Article 21*  
*Observations in Case of Intended Refusal*

An application under Article 3 or a request under Articles 7, 10 to 14, 17 and 18 may not be refused totally or in part by an Office without giving the applicant or the requesting party, as the case may be, an opportunity to make observations on the intended refusal within a reasonable time limit. In respect of Article 14, no Office shall be required to give an opportunity to make observations where the person requesting the relief measure has already had an opportunity to present an observation on the facts on which the decision is to be based.

*Article 22*  
*Regulations*

- (1) [*Content*]
- (a) The Regulations under this Treaty provide rules concerning
- (i) matters which this Treaty expressly provides to be “prescribed in the Regulations”;

(ii) any details useful in the implementation of the provisions of this Treaty;

(iii) any administrative requirements, matters or procedures.

(b) The Regulations also contain Model International Forms.

(2) [*Amending the Regulations*] Subject to paragraph (3), any amendment of the Regulations shall require three-fourths of the votes cast.

(3) [*Requirement of Unanimity*]

(a) The Regulations may specify provisions of the Regulations which may be amended only by unanimity.

(b) Any amendment of the Regulations resulting in the addition of provisions to, or the deletion of provisions from, the provisions specified in the Regulations pursuant to subparagraph (a) shall require unanimity.

(c) In determining whether unanimity is attained, only votes actually cast shall be taken into consideration. Abstentions shall not be considered as votes.

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

*Article 23*  
*Assembly*

(1) [*Composition*]

(a) The Contracting Parties shall have an Assembly.

(b) Each Contracting Party shall be represented in the Assembly by one delegate, who may be assisted by alternate delegates, advisors and experts. Each delegate may represent only one Contracting Party.

(2) [*Tasks*] The Assembly shall

(i) deal with matters concerning the development of this Treaty;

(ii) amend the Regulations, including the Model International Forms;

(iii) determine the conditions for the date of application of each amendment referred to in item (ii);

(iv) perform such other functions as are appropriate under this Treaty.

(3) [*Quorum*]

(a) One-half of the members of the Assembly which are States shall constitute a quorum.

(b) Notwithstanding subparagraph (a), if, in any session, the number of the members of the Assembly which are States and are represented is less than one-half but equal to or more than one-third of the members of the Assembly which are States, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the members of the Assembly which are States and were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of such members having thus expressed their vote or abstention attains the number of the members which was lacking for attaining the quorum in the session itself, such decisions shall take effect, provided that at the same time the required majority still obtains.

(4) [*Taking Decisions in the Assembly*]

(a) The Assembly shall endeavor to take its decisions by consensus.

(b) Where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. In such a case,

(i) each Contracting Party that is a State shall have one vote and shall vote only in its own name; and

(ii) any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its Member States which are party to this Treaty. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and vice versa. In addition, no such intergovernmental organization shall participate in the vote if any one of its Member States party to this Treaty is a Member State of another such intergovernmental organization and that other intergovernmental organization participates in that vote.

(5) [*Majorities*]

(a) Subject to Articles 22(2) and (3) and 25(2)(b), the decisions of the Assembly shall require two-thirds of the votes cast.

(b) In determining whether the required majority is attained, only votes actually cast shall be taken into consideration. Abstentions shall not be considered as votes.

(6) [*Sessions*] The Assembly shall meet upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(7) [*Rules of Procedure*] The Assembly shall establish its own rules of procedure, including rules for the convocation of extraordinary sessions.

*Article 24*  
*International Bureau*

(1) [*Administrative Tasks*]

(a) The International Bureau shall perform the administrative tasks concerning this Treaty.

(b) In particular, the International Bureau shall prepare the meetings and provide the secretariat of the Assembly and of such committees of experts and working groups as may be established by the Assembly.

(2) [*Meetings Other than Sessions of the Assembly*] The Director General shall convene any committee and working group established by the Assembly.

(3) [*Role of the International Bureau in the Assembly and Other Meetings*]

(a) The Director General and persons designated by the Director General shall participate, without the right to vote, in all meetings of the Assembly, the committees and working groups established by the Assembly.

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

(4) [*Conferences*]

(a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for any revision conferences.

(b) The International Bureau may consult with member States of the Organization, intergovernmental organizations and international and national non-governmental organizations concerning the said preparations.

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

(5) [*Other Tasks*] The International Bureau shall carry out any other tasks assigned to it in relation to this Treaty.

*Article 25*  
*Revision and Amendment*

(1) [*Revision of the Treaty*] This Treaty may be revised by a diplomatic conference. The convocation of any diplomatic conference shall be decided by the Assembly.

(2) [*Amendment by the Assembly of Certain Provisions of the Treaty*]

(a) Articles 23 and 24 may be amended by the Assembly. Proposals for amendment may be initiated by any Contracting Party or by the Director General. Such proposals shall be communicated by the Director General to the Contracting Parties at least six months in advance of their consideration by the Assembly.

(b) Adoption of any amendment to the Articles referred to in subparagraph (a) shall require three-fourths of the votes cast.

(c) Any amendment to the provisions referred to in subparagraph (a) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the Contracting Parties which were members of the Assembly at the time the Assembly adopted the amendment. Any amendment to the said provisions thus accepted shall bind all the Contracting Parties at the time the amendment enters into force, and States and intergovernmental organizations which become Contracting Parties at a subsequent date.

*Article 26*  
*Becoming Party to the Treaty*

(1) [*Eligibility*] The following entities may sign and, subject to paragraphs (2) and (3) and Article 28(1) and (3), become party to this Treaty:

(i) any State member of the Organization in respect of which marks may be registered with its own Office;

(ii) any intergovernmental organization which maintains an Office in which marks may be registered with effect in the territory in which the constituting treaty of the intergovernmental organization applies, in all its member States or in those of its member States which are designated for such purpose in the relevant application, provided that all the member States of the intergovernmental organization are members of the Organization;

(iii) any State member of the Organization in respect of which marks may be registered only through the Office of another specified State that is a member of the Organization;

(iv) any State member of the Organization in respect of which marks may be registered only through the Office maintained by an intergovernmental organization of which that State is a member;

(v) any State member of the Organization in respect of which marks may be registered only through an Office common to a group of States members of the Organization.

(2) [*Ratification or Accession*] Any entity referred to in paragraph (1) may deposit

(i) an instrument of ratification, if it has signed this Treaty,

(ii) an instrument of accession, if it has not signed this Treaty.

(3) [*Effective Date of Deposit*] The effective date of the deposit of an instrument of ratification or accession shall be,

(i) in the case of a State referred to in paragraph (1)(i), the date on which the instrument of that State is deposited;

(ii) in the case of an intergovernmental organization, the date on which the instrument of that intergovernmental organization is deposited;

(iii) in the case of a State referred to in paragraph (1)(iii), the date on which the following condition is fulfilled: the instrument of that State has been deposited and the instrument of the other, specified State has been deposited;

(iv) in the case of a State referred to in paragraph (1)(iv), the date applicable under item (ii), above;

(v) in the case of a State member of a group of States referred to in paragraph (1)(v), the date on which the instruments of all the States members of the group have been deposited.

#### *Article 27*

##### *Application of the TLT 1994 and This Treaty*

(1) [*Relations Between Contracting Parties to Both This Treaty and the TLT 1994*] This Treaty alone shall be applicable as regards the mutual relations of Contracting Parties to both this Treaty and the TLT 1994.

(2) [*Relations Between Contracting Parties to This Treaty and Contracting Parties to the TLT 1994 That Are Not Party to This Treaty*] Any Contracting Party to both this Treaty and the TLT 1994 shall continue to apply the TLT 1994 in its relations with Contracting Parties to the TLT 1994 that are not party to this Treaty.

*Article 28*  
*Entry into Force;*  
*Effective Date of Ratifications and Accessions*

(1) [*Instruments to Be Taken into Consideration*] For the purposes of this Article, only instruments of ratification or accession that are deposited by entities referred to in Article 26(1) and that have an effective date according to Article 26(3) shall be taken into consideration.

(2) [*Entry into Force of the Treaty*] This Treaty shall enter into force three months after five States or intergovernmental organizations referred to in Article 26(1)(ii) have deposited their instruments of ratification or accession.

(3) [*Entry into Force of Ratifications and Accessions Subsequent to the Entry into Force of the Treaty*] Any entity not covered by paragraph (2) shall become bound by this Treaty three months after the date on which it has deposited its instrument of ratification or accession.

*Article 29*  
*Reservations*

(1) [*Special Kinds of Marks*] Any State or intergovernmental organization may declare through a reservation that, notwithstanding Article 2(1) and (2)(a), any of the provisions of Articles 3(1), 5, 7, 8(5), 11 and 13 shall not apply to associated marks, defensive marks or derivative marks. Such reservation shall specify those of the aforementioned provisions to which the reservation relates.

(2) [*Certain Rights of the Licensee*] Any State or intergovernmental organization may declare through a reservation that, notwithstanding Article 19(2), it requires the recordal of a license as a condition for any right that the licensee may have under the law of that State or intergovernmental organization to join infringement proceedings initiated by the holder or to obtain, by way of such proceedings, damages resulting from an infringement of the mark which is the subject of the license.

(3) [*Modalities*] Any reservation under paragraph (1) or (2) shall be made in a declaration accompanying the instrument of ratification of, or accession to, this Treaty of the State or intergovernmental organization making the reservation.

(4) [*Withdrawal*] Any reservation under paragraph (1) or (2) may be withdrawn at any time.

(5) [*Prohibition of Other Reservations*] No reservation to this Treaty other than the reservations allowed under paragraphs (1) and (2) shall be permitted.



*Article 30*  
*Denunciation of the Treaty*

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

(2) [*Effective Date*] Denunciation shall take effect one year from the date on which the Director General has received the notification. It shall not affect the application of this Treaty to any application pending or any mark registered in respect of the denouncing Contracting Party at the time of the expiration of the said one-year period, provided that the denouncing Contracting Party may, after the expiration of the said one-year period, discontinue applying this Treaty to any registration as from the date on which that registration is due for renewal.

*Article 31*  
*Languages of the Treaty; Signature*

(1) [*Original Texts; Official Texts*]

(a) This Treaty shall be signed in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic.

(b) An official text in a language not referred to in subparagraph (a) that is an official language of a Contracting Party shall be established by the Director General after consultation with the said Contracting Party and any other interested Contracting Party.

(2) [*Time Limit for Signature*] This Treaty shall remain open for signature at the headquarters of the Organization for one year after its adoption.

*Article 32*  
*Depositary*

The Director General shall be the depositary of this Treaty.

**DRAFT REGULATIONS UNDER  
THE REVISED TRADEMARK LAW TREATY**

List of Rules

- Rule 1: Abbreviated Expressions  
Rule 2: Manner of Indicating Names and Addresses  
Rule 3: Details Concerning the Application  
Rule 4: Details Concerning Representation and Address for Service  
Rule 5: Details Concerning the Filing Date  
Rule 6: Details Concerning Communications  
Rule 7: Manner of Identification of an Application Without Its Application Number  
Rule 8: Details Concerning Duration and Renewal  
Rule 9: Relief Measures in Case of Failure to Comply with Time Limits  
Rule 10: Requirements Concerning the Request for Recordal of a License or for Amendment or Cancellation of the Recordal of a License

List of Model International Forms

- Form No. 1 Application for the Registration of a Mark  
Form No. 2 Power of Attorney  
Form No. 3 Request for the Recordal of Change(s) in Name(s) and/or Address(es)  
Form No. 4 Request for the Recordal of a Change in Ownership in Respect of Registration(s) and/or Application(s) for Registration of Marks  
Form No. 5 Certificate of Transfer in Respect of Registration(s) and/or Application(s) for Registration of Marks  
Form No. 6 Transfer Document in Respect of Registration(s) and/or Application(s) for Registration of Marks  
Form No. 7 Request for the Correction of Mistake(s) in Registration(s) and/or Application(s) for Registration of Marks  
Form No. 8 Request for the Renewal of a Registration  
Form No. 9 Request for Recordal of License  
Form No. 10 Statement of License  
Form No. 11 Statement of Amendment of License  
Form No. 12 Statement of Cancellation of License

*Rule 1*  
*Abbreviated Expressions*

(1) [*Abbreviated Expressions Defined in the Regulations*] For the purposes of these Regulations, unless expressly stated otherwise:

- (i) “Treaty” means the Revised Trademark Law Treaty;
- (ii) “Article” refers to the specified Article of the Treaty;
- (iii) “exclusive license” means a license which is only granted to one licensee and which excludes the holder from using the mark and from granting licenses to any other person;
- (iv) “sole license” means a license which is only granted to one licensee and which excludes the holder from granting licenses to any other person but does not exclude the holder from using the mark;
- (v) “non-exclusive license” means a license which does not exclude the holder from using the mark or from granting licenses to any other person.

(2) [*Abbreviated Expressions Defined in the Treaty*] The abbreviated expressions defined in Article 1 for the purposes of the Treaty shall have the same meaning for the purposes of these Regulations.

*Rule 2*  
*Manner of Indicating Names and Addresses*

(1) [*Names*]

(a) Where the name of a person is to be indicated, any Contracting Party may require,

(i) where the person is a natural person, that the name to be indicated be the family or principal name and the given or secondary name or names of that person or that the name to be indicated be, at that person's option, the name or names customarily used by the said person;

(ii) where the person is a legal entity, that the name to be indicated be the full official designation of the legal entity.

(b) Where the name of a representative which is a firm or partnership is to be indicated, any Contracting Party shall accept as indication of the name the indication that the firm or partnership customarily uses.

(2) [*Addresses*]

(a) Where the address of a person is to be indicated, any Contracting Party may require that the address be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address and, in any case, consist of all the relevant administrative units up to, and including, the house or building number, if any.

(b) Where a communication to the Office of a Contracting Party is in the name of two or more persons with different addresses, that Contracting Party may require that such communication indicate a single address as the address for correspondence.

(c) The indication of an address may contain a telephone number, a telefacsimile number and an e-mail address and, for the purposes of correspondence, an address different from the address indicated under subparagraph (a).

(d) Subparagraphs (a) and (c) shall apply, *mutatis mutandis*, to addresses for service.

(3) Any Contracting Party may require that a communication to the Office indicate the number or other means of identification, if any, with which the applicant, holder, representative or interested person is registered with its Office. No Contracting Party may refuse a communication on grounds of failure to comply with any such requirement, except for applications filed in electronic form.

(4) [*Script to Be Used*] Any Contracting Party may require that any indication referred to in paragraphs (1) to (3) be in the script used by the Office.

### *Rule 3*

#### *Details Concerning the Application*

(1) [*Standard Characters*] Where the Office of a Contracting Party uses characters (letters and numbers) that it considers as being standard, and where the application contains a statement to the effect that the applicant wishes that the mark be registered and published in the standard characters used by the Office, the Office shall register and publish that mark in such standard characters.

(2) [*Mark Claiming Color*] Where the application contains a statement to the effect that the applicant wishes to claim color as a distinctive feature of the mark, the Office may require that the application indicate the name or code of the color or colors claimed and an indication, in respect of each color, of the principal parts of the mark which are in that color.

(3) [*Number of Reproductions*]

(a) Where the application does not contain a statement to the effect that the applicant wishes to claim color as a distinctive feature of the mark, a Contracting Party may not require more than

(i) five reproductions of the mark in black and white where the application may not, under the law of that Contracting Party, or does not contain a statement to the effect that the applicant wishes the mark to be registered and published in the standard characters used by the Office of the said Contracting Party;

(ii) one reproduction of the mark in black and white where the application contains a statement to the effect that the applicant wishes the mark to be registered and published in the standard characters used by the Office of that Contracting Party.

(b) Where the application contains a statement to the effect that the applicant wishes to claim color as a distinctive feature of the mark, a Contracting Party may not require more than five reproductions of the mark in black and white and five reproductions of the mark in color.

(4) [*Three-Dimensional Mark*]

(a) Where the application contains a statement to the effect that the mark is a three-dimensional mark, the reproduction of the mark shall consist of a two-dimensional graphic or photographic reproduction.

(b) The reproduction furnished under subparagraph (a) may, at the option of the applicant, consist of one single view of the mark or of several different views of the mark.

(c) Where the Office considers that the reproduction of the mark furnished by the applicant under subparagraph (a) does not sufficiently show the particulars of the three-dimensional mark, it may invite the applicant to furnish, within a reasonable time limit fixed in the invitation, up to six different views of the mark and/or a description by words of that mark.

(d) Where the Office considers that the different views and/or the description of the mark referred to in subparagraph (c) still do not sufficiently show the particulars of the three-dimensional mark, it may invite the applicant to furnish, within a reasonable time limit fixed in the invitation, a specimen of the mark.

(e) Paragraph (3)(a)(i) and (b) shall apply *mutatis mutandis*.

(5) [*Hologram Mark, Motion Mark, Color Mark, Position Mark*] Where the application contains a statement to the effect that the mark is a hologram mark, a motion mark, a color mark or a position mark, a Contracting Party may require one or more reproductions of the mark and details concerning the mark, as prescribed by the law of that Contracting Party.

(6) [*Mark Consisting of a Non-Visible Sign*] Where the application contains a statement to the effect that the mark consists of a non-visible sign, a Contracting Party may require one or more representations of the mark, an indication of the type of mark and details concerning the mark, as prescribed by the law of that Contracting Party.

(7) [*Transliteration of the Mark*] For the purposes of Article 3(1)(a)(xi), where the mark consists of or contains matter in script other than the script used by the Office or numbers expressed in numerals other than numerals used by the Office, a transliteration of such matter in the script and numerals used by the Office may be required.

(8) [*Translation of the Mark*] For the purposes of Article 3(1)(a)(xii), where the mark consists of or contains a word or words in a language other than the language, or one of the languages, admitted by the Office, a translation of that word or those words into that language or one of those languages may be required.

(9) [*Time Limit for Furnishing Evidence of Actual Use of the Mark*] The time limit referred to in Article 3(3) shall not be shorter than six months counted from the date of allowance of the application by the Office of the Contracting Party where that application was filed. The applicant or holder shall have the right to an extension of that time limit, subject to the conditions provided for by the law of that Contracting Party, by periods of at least six months each, up to a total extension of at least two years and a half.

#### *Rule 4*

##### *Details Concerning Representation and Address for Service*

(1) [*Address Where a Representative Is Appointed*] Where a representative is appointed, a Contracting Party shall consider the address of that representative to be the address for service.

(2) [*Address Where No Representative Is Appointed*] Where no representative is appointed and an applicant, holder or other interested person has provided as his address an address on the territory of the Contracting Party, that Contracting Party shall consider that address to be the address for service.

(3) [*Time Limit*] The time limit referred to in Article 4(3)(d) shall be counted from the date of receipt of the communication referred to in that Article by the Office of the Contracting Party concerned and shall not be less than one month where the address of the person on whose behalf the communication is made is on the territory of that Contracting Party and not less than two months where such an address is outside the territory of that Contracting Party.

#### *Rule 5*

##### *Details Concerning the Filing Date*

(1) [*Procedure in Case of Non-Compliance with Requirements*] If the application does not, at the time of its receipt by the Office, comply with any of the applicable requirements of Article 5(1)(a) or (2)(a), the Office shall promptly invite the applicant to comply with such requirements within a time limit indicated in the invitation, which time limit shall be at least one month from the date of the invitation where the applicant's address is on the territory of the Contracting Party concerned and at least two months where the applicant's address is outside the territory of the Contracting Party concerned. Compliance with the invitation may be subject to the payment of a special fee. Even if the Office fails to send the said invitation, the said requirements remain unaffected.

(2) [*Filing Date in Case of Correction*] If, within the time limit indicated in the invitation, the applicant complies with the invitation referred to in paragraph (1) and pays any required special fee, the filing date shall be the date on which all the required indications and elements referred to in Article 5(1)(a) have been received by the Office and, where applicable, the required fees referred to in Article 5(2)(a) have been paid to the Office. Otherwise, the application shall be treated as if it had not been filed.

### *Rule 6*

#### *Details Concerning Communications*

(1) [*Indications Accompanying Signature of Communications on Paper*] Any Contracting Party may require that the signature of the natural person who signs be accompanied by

(i) an indication in letters of the family or principal name and the given or secondary name or names of that person or, at the option of that person, of the name or names customarily used by the said person;

(ii) an indication of the capacity in which that person signed, where such capacity is not obvious from reading the communication.

(2) [*Date of Signing*] Any Contracting Party may require that a signature be accompanied by an indication of the date on which the signing was effected. Where that indication is required but is not supplied, the date on which the signing is deemed to have been effected shall be the date on which the communication bearing the signature was received by the Office or, if the Contracting Party so allows, a date earlier than the latter date.

(3) [*Signature of Communications on Paper*] Where a communication to the Office of a Contracting Party is on paper and a signature is required, that Contracting Party

(i) shall, subject to item (iii), accept a handwritten signature;

(ii) may permit, instead of a handwritten signature, the use of other forms of signature, such as a printed or stamped signature, or the use of a seal or of a bar-coded label;

(iii) may, where the natural person who signs the communication is a national of the Contracting Party and such person's address is on its territory, or where the legal entity on behalf of which the communication is signed is organized under its law and has either a domicile or a real and effective industrial or commercial establishment on its territory, require that a seal be used instead of a handwritten signature.

(4) [*Signature of Communications on Paper Filed by Electronic Means of Transmittal*] A Contracting Party that provides for communications on paper to be filed by electronic means of transmittal shall consider any such communication signed if a graphic representation of a signature accepted by that Contracting Party under paragraph (3) appears on the communication as received.

(5) [*Original of a Communication on Paper Filed by Electronic Means of Transmittal*] A Contracting Party that provides for communications on paper to be filed by electronic means of transmittal may require that the original of any such communication be filed

(i) with the Office accompanied by a letter identifying that earlier transmission and

(ii) within a time limit which shall be at least one month from the date on which the office received the communication by electronic means of transmittal.

(6) [*Authentication of Communications in Electronic Form*] A Contracting Party that permits the filing of communications in electronic form may require that any such communication be authenticated through a system of electronic authentication as prescribed by that Contracting Party.

(7) [*Date of Receipt*] Each Contracting Party shall be free to determine the circumstances in which the receipt of a document or the payment of a fee shall be deemed to constitute receipt by or payment to the Office in cases in which the document was actually received by or payment was actually made to

(i) a branch or sub-office of the Office,

(ii) a national Office on behalf of the Office of the Contracting Party, where the Contracting Party is an intergovernmental organization referred to in Article 26(1)(ii),

(iii) an official postal service,

(iv) a delivery service, or an agency, specified by the Contracting Party,

(v) an address other than the nominated addresses of the Office.

(8) [*Electronic Filing*] Subject to paragraph (7), where a Contracting Party provides for the filing of a communication in electronic form or by electronic means of transmittal and the communication is so filed, the date on which the Office of that Contracting Party receives the communication in such form or by such means shall constitute the date of receipt of the communication.



*Rule 7*  
*Manner of Identification of an Application*  
*Without Its Application Number*

(1) [*Manner of Identification*] Where it is required that an application be identified by its application number but where such a number has not yet been issued or is not known to the applicant or his representative, that application shall be considered identified if the following is supplied:

- (i) the provisional application number, if any, given by the Office, or
- (ii) a copy of the application, or
- (iii) a reproduction of the mark, accompanied by an indication of the date on which, to the best knowledge of the applicant or the representative, the application was received by the Office and an identification number given to the application by the applicant or the representative.

(2) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraph (1) be complied with in order for an application to be identified where its application number has not yet been issued or is not known to the applicant or his representative.

*Rule 8*  
*Details Concerning Duration and Renewal*

For the purposes of Article 13(1)(c), the period during which the request for renewal may be presented and the renewal fee may be paid shall start at least six months before the date on which the renewal is due and shall end at the earliest six months after that date. If the request for renewal is presented and/or the renewal fees are paid after the date on which the renewal is due, any Contracting Party may subject the renewal to the payment of a surcharge.

*Rule 9*  
*Relief Measures in Case of*  
*Failure to Comply with Time Limits*

(1) [*Requirements Concerning Extension of Time Limits Under Article 14(2)(i)*] A Contracting Party that provides for the extension of a time limit under Article 14(2)(i) shall extend the time limit for a reasonable period of time from the date of filing the request for extension and may require that the request

- (i) contain an identification of the requesting party and the time limit concerned, and
- (ii) be filed within a time limit which shall not be less than two months from the date of expiry of the time limit concerned.

(2) [*Requirements Concerning Continued Processing Under Article 14(2)(ii)*] A Contracting Party may require that the request for continued processing under Article 14(2)(ii)

(i) contain an identification of the requesting party and the time limit concerned, and

(ii) be filed within a time limit which shall not be less than two months from the date of expiry of the time limit concerned. The omitted act shall be completed within the same period or, where the Contracting Party so provides, together with the request.

(3) [*Requirements Concerning Reinstatement of Rights Under Article 14(2)(iii)*]

(a) A Contracting Party may require that the request for reinstatement of rights under Article 14(2)(iii)

(i) contain an identification of the requesting party and the time limit concerned, and

(ii) set out the facts and evidence in support of the reasons for the failure to comply with the time limit concerned.

(b) The request for reinstatement of rights shall be filed with the Office within a reasonable time limit, the duration of which shall be determined by the Contracting Party from the date of the removal of the cause of failure to comply with the time limit concerned. The omitted act shall be completed within the same period or, where the Contracting Party so provides, together with the request.

(c) A Contracting Party may provide for a maximum time limit for complying with the requirements under subparagraphs (a) and (b) of not less than six months from the date of expiry of the time limit concerned.

(4) [*Exceptions Under Article 14(3)*] The exceptions referred to in Article 14(3) are the cases of failure to comply with a time limit

(i) for which a relief measure has already been granted under Article 14(2),

(ii) for filing a request for a relief measure under Article 14,

(iii) for payment of a renewal fee,

(iv) for an action before a board of appeal or other review body constituted in the framework of the Office,

(v) for an action in *inter partes* proceedings,

(vi) for filing the declaration referred to in Article 3(1)(a)(vii) or the declaration referred to in Article 3(1)(a)(viii),

- (vii) for filing a declaration which, under the law of the Contracting Party, may establish a new filing date for a pending application, and
- (viii) for the correction or addition of a priority claim.

*Rule 10*

*Requirements Concerning the Request for Recordal of a License or for  
Amendment or Cancellation of the Recordal of a License*

(1) [*Content of Request*]

- (a) A Contracting Party may require that the request for recordal of a license under Article 17(1) contain some or all of the following indications or elements:
- (i) the name and address of the holder;
  - (ii) where the holder has a representative, the name and address of that representative;
  - (iii) where the holder has an address for service, such address;
  - (iv) the name and address of the licensee;
  - (v) where the licensee has a representative, the name and address of that representative;
  - (vi) where the licensee has an address for service, such address;
  - (vii) the name of a State of which the licensee is a national if he is a national of any State, the name of a State in which the licensee has his domicile, if any, and the name of a State in which the licensee has a real and effective industrial or commercial establishment, if any;
  - (viii) where the holder or the licensee is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;
  - (ix) the registration number of the mark which is the subject of the license;
  - (x) the names of the goods and/or services for which the license is granted, grouped according to the classes of the Nice Classification, each group preceded by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;
  - (xi) whether the license is an exclusive license, a non-exclusive license or a sole license;

(xii) where applicable, that the license concerns only a part of the territory covered by the registration, together with an explicit indication of that part of the territory;

(xiii) the duration of the license.

(b) A Contracting Party may require that the request for recordal of an amendment or cancellation of the recordal of a license under Article 18(1) contain some or all of the following indications or elements:

(i) the indications specified in items (i) to (ix) of subparagraph (a);

(ii) where the amendment or cancellation concerns any of the indications or elements specified under subparagraph (a), the nature and scope of the amendment or cancellation to be recorded.

(2) [*Supporting Documents for Recordal of a License*]

(a) A Contracting Party may require that the request for recordal of a license be accompanied, at the option of the requesting party, by one of the following:

(i) an extract of the license contract indicating the parties and the rights being licensed, certified by a notary public or any other competent public authority as being a true extract of the contract; or

(ii) an uncertified statement of license, the content of which corresponds to the statement of license Form provided for in the Regulations, and signed by both the holder and the licensee.

(b) Any Contracting Party may require that any co-holder who is not a party to the license contract give his express consent to the license in a document signed by him.

(3) [*Supporting Documents for Amendment of Recordal of a License*]

(a) A Contracting Party may require that the request for amendment of the recordal of a license be accompanied, at the option of the requesting party, by one of the following:

(i) documents substantiating the requested amendment of the recordal of the license; or

(ii) an uncertified statement of amendment of license, the content of which corresponds to the statement of amendment of license Form provided for in these Regulations, and signed by both the holder and the licensee.

(b) Any Contracting Party may require that any co-holder who is not a party to the license contract give his express consent to the amendment of the license in a document signed by him.

(4) [*Supporting Documents for Cancellation of Recordal of a License*] A Contracting Party may require that the request for cancellation of the recordal of a license be accompanied, at the option of the requesting party, by one of the following:

(i) documents substantiating the requested cancellation of the recordal of the license; or

(ii) an uncertified statement of cancellation of license, the content of which corresponds to the statement of cancellation of license Form provided for in these Regulations, and signed by both the holder and the licensee.

## **MODEL INTERNATIONAL FORMS**

Editor's note: The Model International Forms, which were presented together with the Basic Proposal, are reproduced on pages 49 to 117 of these Records.



**COMPARISON OF THE TEXTS OF THE TRADEMARK LAW TREATY AND THE  
SINGAPORE TREATY ON THE LAW OF TRADEMARKS AND THE REGULATIONS  
THEREUNDER**

Trademark Law Treaty  
(done at Geneva on October 27, 1994)

Singapore Treaty  
(done at Singapore on March 27, 2006)

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Article 1: Abbreviated Expressions  
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*Article 1*  
*Abbreviated Expressions*

For the purposes of this Treaty, unless expressly stated otherwise:

(i) “Office” means the agency entrusted by a Contracting Party with the registration of marks;

(ii) “registration” means the registration of a mark by an Office;

(iii) “application” means an application for registration;

(iv) references to a “person” shall be construed as references to both a natural person and a legal entity;

(v) “holder” means the person whom the register of marks shows as the holder of the registration;

(vi) “register of marks” means the collection of data maintained by an Office, which includes the contents of all registrations and all data recorded in respect of all registrations, irrespective of the medium in which such data are stored;

(vii) “Paris Convention” means the Paris Convention for the Protection of Industrial Property, signed at Paris on March 20, 1883, as revised and amended;

(viii) “Nice Classification” means the classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, signed at Nice on June 15, 1957, as revised and amended;

*Article 1*  
*Abbreviated Expressions*

For the purposes of this Treaty, unless expressly stated otherwise:

(i) “Office” means the agency entrusted by a Contracting Party with the registration of marks;

(ii) “registration” means the registration of a mark by an Office;

(iii) “application” means an application for registration;

(iv) “communication” means any application, or any request, declaration, correspondence or other information relating to an application or a registration, which is filed with the Office;

(v) references to a “person” shall be construed as references to both a natural person and a legal entity;

(vi) “holder” means the person whom the register of marks shows as the holder of the registration;

(vii) “register of marks” means the collection of data maintained by an Office, which includes the contents of all registrations and all data recorded in respect of all registrations, irrespective of the medium in which such data are stored;

(viii) “procedure before the Office” means any procedure in proceedings before the Office with respect to an application or a registration;

(ix) “Paris Convention” means the Paris Convention for the Protection of Industrial Property, signed at Paris on March 20, 1883, as revised and amended;

(x) “Nice Classification” means the classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, signed at Nice on June 15, 1957, as revised and amended;

(xi) “license” means a license for the use of a mark under the law of a Contracting Party;

(xii) “licensee” means the person to whom a license has been granted;

(ix) “Contracting Party” means any State or intergovernmental organization party to this Treaty;

(x) references to an “instrument of ratification” shall be construed as including references to instruments of acceptance and approval;

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

(xii) “Director General” means the Director General of the Organization;

(xiii) “Regulations” means the Regulations under this Treaty that are referred to in Article 17.

(xiii) “Contracting Party” means any State or intergovernmental organization party to this Treaty;

(xiv) “Diplomatic Conference” means the convocation of Contracting Parties for the purpose of revising or amending the Treaty;

(xv) “Assembly” means the Assembly referred to in Article 23;

(xvi) references to an “instrument of ratification” shall be construed as including references to instruments of acceptance and approval;

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

(xviii) “International Bureau” means the International Bureau of the Organization;

(xix) “Director General” means the Director General of the Organization;

(xx) “Regulations” means the Regulations under this Treaty that are referred to in Article 22;

(xxi) references to an “Article” or to a “paragraph”, “subparagraph” or “item” of an Article shall be construed as including references to the corresponding rule(s) under the Regulations;

(xxii) “TLT 1994” means the Trademark Law Treaty done at Geneva on October 27, 1994.

*Article 2*  
*Marks to Which the Treaty Applies*

(1) [*Nature of Marks*]

(a) This Treaty shall apply to marks consisting of visible signs, provided that only those Contracting Parties which accept for registration three-dimensional marks shall be obliged to apply this Treaty to such marks.

(b) This Treaty shall not apply to hologram marks and to marks not consisting of visible signs, in particular, sound marks and olfactory marks.

(2) [*Kinds of Marks*]

(a) This Treaty shall apply to marks relating to goods (trademarks) or services (service marks) or both goods and services.

*Article 2*  
*Marks to Which the Treaty Applies*

(1) [*Nature of Marks*] Any Contracting Party shall apply this Treaty to marks consisting of signs that can be registered as marks under its law.

(2) [*Kinds of Marks*]

(a) This Treaty shall apply to marks relating to goods (trademarks) or services (service marks) or both goods and services.

(b) This Treaty shall not apply to collective marks, certification marks and guarantee marks.

*Article 3  
Application*

(1) [*Indications or Elements Contained in or Accompanying an Application; Fee*]

(a) Any Contracting Party may require that an application contain some or all of the following indications or elements:

(i) a request for registration;

(ii) the name and address of the applicant;

(iii) the name of a State of which the applicant is a national if he is the national of any State, the name of a State in which the applicant has his domicile, if any, and the name of a State in which the applicant has a real and effective industrial or commercial establishment, if any;

(iv) where the applicant is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;

(v) where the applicant has a representative, the name and address of that representative;

(vi) where an address for service is required under Article 4(2)(b), such address;

(vii) where the applicant wishes to take advantage of the priority of an earlier application, a declaration claiming the priority of that earlier application, together with indications and evidence in support of the declaration of priority that may be required pursuant to Article 4 of the Paris Convention;

(viii) where the applicant wishes to take advantage of any protection resulting from the display of goods and/or services in an exhibition, a declaration to that effect, together with indications in support of that declaration, as required by the law of the Contracting Party;

(ix) where the Office of the Contracting Party uses characters (letters and numbers) that it considers as being standard and where the applicant wishes that the mark be registered and published in standard characters, a statement to that effect;

(b) This Treaty shall not apply to collective marks, certification marks and guarantee marks.

*Article 3  
Application*

(1) [*Indications or Elements Contained in or Accompanying an Application; Fee*]

(a) Any Contracting Party may require that an application contain some or all of the following indications or elements:

(i) a request for registration;

(ii) the name and address of the applicant;

(iii) the name of a State of which the applicant is a national if he/she is the national of any State, the name of a State in which the applicant has his/her domicile, if any, and the name of a State in which the applicant has a real and effective industrial or commercial establishment, if any;

(iv) where the applicant is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;

(v) where the applicant has a representative, the name and address of that representative;

(vi) where an address for service is required under Article 4(2)(b), such address;

(vii) where the applicant wishes to take advantage of the priority of an earlier application, a declaration claiming the priority of that earlier application, together with indications and evidence in support of the declaration of priority that may be required pursuant to Article 4 of the Paris Convention;

(viii) where the applicant wishes to take advantage of any protection resulting from the display of goods and/or services in an exhibition, a declaration to that effect, together with indications in support of that declaration, as required by the law of the Contracting Party;

(x) where the applicant wishes to claim color as a distinctive feature of the mark, a statement to that effect as well as the name or names of the color or colors claimed and an indication, in respect of each color, of the principal parts of the mark which are in that color;

(xi) where the mark is a three-dimensional mark, a statement to that effect;

(xii) one or more reproductions of the mark;

(xiii) a transliteration of the mark or of certain parts of the mark;

(xiv) a translation of the mark or of certain parts of the mark;

(xv) the names of the goods and/or services for which the registration is sought, grouped according to the classes of the Nice Classification, each group preceded by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;

(xvi) a signature by the person specified in paragraph (4);

(xvii) a declaration of intention to use the mark, as required by the law of the Contracting Party.

(b) The applicant may file, instead of or in addition to the declaration of intention to use the mark referred to in subparagraph (a)(xvii), a declaration of actual use of the mark and evidence to that effect, as required by the law of the Contracting Party.

(c) Any Contracting Party may require that, in respect of the application, fees be paid to the Office.

(ix) at least one representation of the mark, as prescribed in the Regulations;

(x) where applicable, a statement, as prescribed in the Regulations, indicating the type of mark as well as any specific requirements applicable to that type of mark;

(xi) where applicable, a statement, as prescribed in the Regulations, indicating that the applicant wishes that the mark be registered and published in the standard characters used by the Office;

(xii) where applicable, a statement, as prescribed in the Regulations, indicating that the applicant wishes to claim color as a distinctive feature of the mark;

(xiii) a transliteration of the mark or of certain parts of the mark;

(xiv) a translation of the mark or of certain parts of the mark;

(xv) the names of the goods and/or services for which the registration is sought, grouped according to the classes of the Nice Classification, each group preceded by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;

(xvi) a declaration of intention to use the mark, as required by the law of the Contracting Party.

(b) The applicant may file, instead of or in addition to the declaration of intention to use the mark referred to in subparagraph (a)(xvi), a declaration of actual use of the mark and evidence to that effect, as required by the law of the Contracting Party.

(c) Any Contracting Party may require that, in respect of the application, fees be paid to the Office.

(2) [*Presentation*] As regards the requirements concerning the presentation of the application, no Contracting Party shall refuse the application,

(i) where the application is presented in writing on paper, if it is presented, subject to paragraph (3), on a form corresponding to the application Form provided for in the Regulations,

(ii) where the Contracting Party allows the transmittal of communications to the Office by telefacsimile and the application is so transmitted, if the paper copy resulting from such transmittal corresponds, subject to paragraph (3), to the application Form referred to in item (i).

(3) [*Language*] Any Contracting Party may require that the application be in the language, or in one of the languages, admitted by the Office. Where the Office admits more than one language, the applicant may be required to comply with any other language requirement applicable with respect to the Office, provided that the application may not be required to be in more than one language.

(4) [*Signature*]

(a) The signature referred to in paragraph (1)(a)(xvi) may be the signature of the applicant or the signature of his representative.

(b) Notwithstanding subparagraph (a), any Contracting Party may require that the declarations referred to in paragraph (1)(a)(xvii) and (1)(b) be signed by the applicant himself even if he has a representative.

(5) [*Single Application for Goods and/or Services in Several Classes*] One and the same application may relate to several goods and/or services, irrespective of whether they belong to one class or to several classes of the Nice Classification.

(6) [*Actual Use*] Any Contracting Party may require that, where a declaration of intention to use has been filed under paragraph (1)(a)(xvii), the applicant furnish to the Office within a time limit fixed in its law, subject to the minimum time limit prescribed in the Regulations, evidence of the actual use of the mark, as required by the said law.

(7) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (4) and (6) be complied with in respect of the application. In particular, the following may not be required in respect of the application throughout its pendency:

(2) [*Single Application for Goods and/or Services in Several Classes*] One and the same application may relate to several goods and/or services, irrespective of whether they belong to one class or to several classes of the Nice Classification.

(3) [*Actual Use*] Any Contracting Party may require that, where a declaration of intention to use has been filed under paragraph (1)(a)(xvi), the applicant furnish to the Office within a time limit fixed in its law, subject to the minimum time limit prescribed in the Regulations, evidence of the actual use of the mark, as required by the said law.

(4) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (3) and in Article 8 be complied with in respect of the application. In particular, the following may not be required in respect of the application throughout its pendency:

(i) the furnishing of any certificate of, or extract from, a register of commerce;

(ii) an indication of the applicant's carrying on of an industrial or commercial activity, as well as the furnishing of evidence to that effect;

(iii) an indication of the applicant's carrying on of an activity corresponding to the goods and/or services listed in the application, as well as the furnishing of evidence to that effect;

(iv) the furnishing of evidence to the effect that the mark has been registered in the register of marks of another Contracting Party or of a State party to the Paris Convention which is not a Contracting Party, except where the applicant claims the application of Article 6*quinquies* of the Paris Convention.

(8) [Evidence] Any Contracting Party may require that evidence be furnished to the Office in the course of the examination of the application where the Office may reasonably doubt the veracity of any indication or element contained in the application.

*Article 4*

*Representation; Address for Service*

(1) [Representatives Admitted to Practice] Any Contracting Party may require that any person appointed as representative for the purposes of any procedure before the Office be a representative admitted to practice before the Office.

(i) the furnishing of any certificate of, or extract from, a register of commerce;

(ii) an indication of the applicant's carrying on of an industrial or commercial activity, as well as the furnishing of evidence to that effect;

(iii) an indication of the applicant's carrying on of an activity corresponding to the goods and/or services listed in the application, as well as the furnishing of evidence to that effect;

(iv) the furnishing of evidence to the effect that the mark has been registered in the register of marks of another Contracting Party or of a State party to the Paris Convention which is not a Contracting Party, except where the applicant claims the application of Article 6*quinquies* of the Paris Convention.

(5) [Evidence] Any Contracting Party may require that evidence be furnished to the Office in the course of the examination of the application where the Office may reasonably doubt the veracity of any indication or element contained in the application.

*Article 4*

*Representation; Address for Service*

(1) [Representatives Admitted to Practice]

(a) Any Contracting Party may require that a representative appointed for the purposes of any procedure before the Office

(i) have the right, under the applicable law, to practice before the Office in respect of applications and registrations and, where applicable, be admitted to practice before the Office;

(ii) provide, as its address, an address on a territory prescribed by the Contracting Party.

(b) An act, with respect to any procedure before the Office, by or in relation to a representative who complies with the requirements applied by the Contracting Party under subparagraph (a), shall have the effect of an act by or in relation to the applicant, holder or other interested person who appointed that representative.

(2) [*Mandatory Representation; Address for Service*]

(a) Any Contracting Party may require that, for the purposes of any procedure before the Office, any person who has neither a domicile nor a real and effective industrial or commercial establishment on its territory be represented by a representative.

(b) Any Contracting Party may, to the extent that it does not require representation in accordance with subparagraph (a), require that, for the purposes of any procedure before the Office, any person who has neither a domicile nor a real and effective industrial or commercial establishment on its territory have an address for service on that territory.

(3) [*Power of Attorney*]

(a) Whenever a Contracting Party allows or requires an applicant, a holder or any other interested person to be represented by a representative before the Office, it may require that the representative be appointed in a separate communication (hereinafter referred to as “power of attorney”) indicating the name of, and signed by, the applicant, the holder or the other person, as the case may be.

(b) The power of attorney may relate to one or more applications and/or registrations identified in the power of attorney or, subject to any exception indicated by the appointing person, to all existing and future applications and/or registrations of that person.

(c) The power of attorney may limit the powers of the representative to certain acts. Any Contracting Party may require that any power of attorney under which the representative has the right to withdraw an application or to surrender a registration contain an express indication to that effect.

(d) Where a communication is submitted to the Office by a person who refers to himself in the communication as a representative but where the Office is, at the time of the receipt of the communication, not in possession of the required power of attorney, the Contracting Party may require that the power of attorney be submitted to the Office within the time limit fixed by the Contracting Party, subject to the minimum time limit prescribed in the Regulations. Any Contracting Party may provide that, where the power of attorney has not been submitted to the Office within the time limit fixed by the Contracting Party, the communication by the said person shall have no effect.

(2) [*Mandatory Representation; Address for Service*]

(a) Any Contracting Party may require that, for the purposes of any procedure before the Office, an applicant, holder or other interested person who has neither a domicile nor a real and effective industrial or commercial establishment on its territory be represented by a representative.

(b) Any Contracting Party may, to the extent that it does not require representation in accordance with subparagraph (a), require that, for the purposes of any procedure before the Office, an applicant, holder or other interested person who has neither a domicile nor a real and effective industrial or commercial establishment on its territory have an address for service on that territory.

(3) [*Power of Attorney*]

(a) Whenever a Contracting Party allows or requires an applicant, a holder or any other interested person to be represented by a representative before the Office, it may require that the representative be appointed in a separate communication (hereinafter referred to as “power of attorney”) indicating the name of the applicant, the holder or the other person, as the case may be.

(b) The power of attorney may relate to one or more applications and/or registrations identified in the power of attorney or, subject to any exception indicated by the appointing person, to all existing and future applications and/or registrations of that person.

(c) The power of attorney may limit the powers of the representative to certain acts. Any Contracting Party may require that any power of attorney under which the representative has the right to withdraw an application or to surrender a registration contain an express indication to that effect.

(d) Where a communication is submitted to the Office by a person who refers to itself in the communication as a representative but where the Office is, at the time of the receipt of the communication, not in possession of the required power of attorney, the Contracting Party may require that the power of attorney be submitted to the Office within the time limit fixed by the Contracting Party, subject to the minimum time limit prescribed in the Regulations. Any Contracting Party may provide that, where the power of attorney has not been submitted to the Office within the time limit fixed by the Contracting Party, the communication by the said person shall have no effect.

(e) As regards the requirements concerning the presentation and contents of the power of attorney, no Contracting Party shall refuse the effects of the power of attorney,

(i) where the power of attorney is presented in writing on paper, if it is presented, subject to paragraph (4), on a form corresponding to the power of attorney Form provided for in the Regulations,

(ii) where the Contracting Party allows the transmittal of communications to the Office by telefacsimile and the power of attorney is so transmitted, if the paper copy resulting from such transmittal corresponds, subject to paragraph (4), to the power of attorney Form referred to in item (i).

(4) [*Language*] Any Contracting Party may require that the power of attorney be in the language, or in one of the languages, admitted by the Office.

(5) [*Reference to Power of Attorney*] Any Contracting Party may require that any communication made to the Office by a representative for the purposes of a procedure before the Office contain a reference to the power of attorney on the basis of which the representative acts.

(6) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (3) to (5) be complied with in respect of the matters dealt with in those paragraphs.

(7) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in any communication referred to in paragraphs (2) to (5).

*Article 5*  
*Filing Date*

(1) [*Permitted Requirements*]

(a) Subject to subparagraph (b) and paragraph (2), a Contracting Party shall accord as the filing date of an application the date on which the Office received the following indications and elements in the language required under Article 3(3):

(i) an express or implicit indication that the registration of a mark is sought;

(ii) indications allowing the identity of the applicant to be established;

(4) [*Reference to Power of Attorney*] Any Contracting Party may require that any communication made to the Office by a representative for the purposes of a procedure before the Office contain a reference to the power of attorney on the basis of which the representative acts.

(5) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (3) and (4) and in Article 8 be complied with in respect of the matters dealt with in those paragraphs.

(6) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in any communication referred to in paragraphs (3) and (4).

*Article 5*  
*Filing Date*

(1) [*Permitted Requirements*]

(a) Subject to subparagraph (b) and paragraph (2), a Contracting Party shall accord as the filing date of an application the date on which the Office received the following indications and elements in the language required under Article 8(2):

(i) an express or implicit indication that the registration of a mark is sought;

(ii) indications allowing the identity of the applicant to be established;



(iii) indications sufficient to contact the applicant or his representative, if any, by mail;

(iv) a sufficiently clear reproduction of the mark whose registration is sought;

(v) the list of the goods and/or services for which the registration is sought;

(vi) where Article 3(1)(a)(xvii) or 3(1)(b) applies, the declaration referred to in Article 3(1)(a)(xvii) or the declaration and evidence referred to in Article 3(1)(b), respectively, as required by the law of the Contracting Party, those declarations being, if so required by the said law, signed by the applicant himself even if he has a representative.

(b) Any Contracting Party may accord as the filing date of the application the date on which the Office received only some, rather than all, of the indications and elements referred to in subparagraph (a) or received them in a language other than the language required under Article 3(3).

(2) [*Permitted Additional Requirement*]

(a) A Contracting Party may provide that no filing date shall be accorded until the required fees are paid.

(b) A Contracting Party may apply the requirement referred to in subparagraph (a) only if it applied such requirement at the time of becoming party to this Treaty.

(3) [*Corrections and Time Limits*] The modalities of, and time limits for, corrections under paragraphs (1) and (2) shall be fixed in the Regulations.

(4) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) be complied with in respect of the filing date.

(iii) indications allowing the applicant or its representative, if any, to be contacted by the Office;

(iv) a sufficiently clear representation of the mark whose registration is sought;

(v) the list of the goods and/or services for which the registration is sought;

(vi) where Article 3(1)(a)(xvi) or (b) applies, the declaration referred to in Article 3(1)(a)(xvi) or the declaration and evidence referred to in Article 3(1)(b), respectively, as required by the law of the Contracting Party.

(b) Any Contracting Party may accord as the filing date of the application the date on which the Office received only some, rather than all, of the indications and elements referred to in subparagraph (a) or received them in a language other than the language required under Article 8(2).

(2) [*Permitted Additional Requirement*]

(a) A Contracting Party may provide that no filing date shall be accorded until the required fees are paid.

(b) A Contracting Party may apply the requirement referred to in subparagraph (a) only if it applied such requirement at the time of becoming party to this Treaty.

(3) [*Corrections and Time Limits*] The modalities of, and time limits for, corrections under paragraphs (1) and (2) shall be fixed in the Regulations.

(4) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) be complied with in respect of the filing date.

*Article 6**Single Registration for Goods and/or Services in Several Classes*

Where goods and/or services belonging to several classes of the Nice Classification have been included in one and the same application, such an application shall result in one and the same registration.

*Article 7**Division of Application and Registration*(1) *[Division of Application]*

(a) Any application listing several goods and/or services (hereinafter referred to as “initial application”) may,

(i) at least until the decision by the Office on the registration of the mark,

(ii) during any opposition proceedings against the decision of the Office to register the mark,

(iii) during any appeal proceedings against the decision on the registration of the mark,

be divided by the applicant or at his request into two or more applications (hereinafter referred to as “divisional applications”) by distributing among the latter the goods and/or services listed in the initial application. The divisional applications shall preserve the filing date of the initial application and the benefit of the right of priority, if any.

(b) Any Contracting Party shall, subject to subparagraph (a), be free to establish requirements for the division of an application, including the payment of fees.

(2) *[Division of Registration]* Paragraph (1) shall apply, *mutatis mutandis*, with respect to a division of a registration. Such a division shall be permitted

(i) during any proceedings in which the validity of the registration is challenged before the Office by a third party,

(ii) during any appeal proceedings against a decision taken by the Office during the former proceedings,

provided that a Contracting Party may exclude the possibility of the division of registrations if its law allows third parties to oppose the registration of a mark before the mark is registered.

*Article 6**Single Registration for Goods and/or Services in Several Classes*

Where goods and/or services belonging to several classes of the Nice Classification have been included in one and the same application, such an application shall result in one and the same registration.

*Article 7**Division of Application and Registration*(1) *[Division of Application]*

(a) Any application listing several goods and/or services (hereinafter referred to as “initial application”) may,

(i) at least until the decision by the Office on the registration of the mark,

(ii) during any opposition proceedings against the decision of the Office to register the mark,

(iii) during any appeal proceedings against the decision on the registration of the mark,

be divided by the applicant or at its request into two or more applications (hereinafter referred to as “divisional applications”) by distributing among the latter the goods and/or services listed in the initial application. The divisional applications shall preserve the filing date of the initial application and the benefit of the right of priority, if any.

(b) Any Contracting Party shall, subject to subparagraph (a), be free to establish requirements for the division of an application, including the payment of fees.

(2) *[Division of Registration]* Paragraph (1) shall apply, *mutatis mutandis*, with respect to a division of a registration. Such a division shall be permitted

(i) during any proceedings in which the validity of the registration is challenged before the Office by a third party,

(ii) during any appeal proceedings against a decision taken by the Office during the former proceedings,

provided that a Contracting Party may exclude the possibility of the division of registrations if its law allows third parties to oppose the registration of a mark before the mark is registered.

*Article 8*  
*Signature*

(1) [*Communication on Paper*] Where a communication to the Office of a Contracting Party is on paper and a signature is required, that Contracting Party

(i) shall, subject to item (iii), accept a handwritten signature,

(ii) shall be free to allow, instead of a handwritten signature, the use of other forms of signature, such as a printed or stamped signature, or the use of a seal,

(iii) may, where the natural person who signs the communication is its national and such person's address is in its territory, require that a seal be used instead of a handwritten signature,

(iv) may, where a seal is used, require that the seal be accompanied by an indication in letters of the name of the natural person whose seal is used.

(2) [*Communication by Telefacsimile*]

(a) Where a Contracting Party allows the transmittal of communications to the Office by telefacsimile, it shall consider the communication signed if, on the printout produced by the telefacsimile, the reproduction of the signature, or the reproduction of the seal together with, where required under paragraph (1)(iv), the indication in letters of the name of the natural person whose seal is used, appears.

(b) The Contracting Party referred to in subparagraph (a) may require that the paper whose reproduction was transmitted by telefacsimile be filed with the Office within a certain period, subject to the minimum period prescribed in the Regulations.

(3) [*Communication by Electronic Means*] Where a Contracting Party allows the transmittal of communications to the Office by electronic means, it shall consider the communication signed if the latter identifies the sender of the communication by electronic means as prescribed by the Contracting Party.

*Article 8*  
*Communications*

(1) [*Means of Transmittal and Form of Communications*] Any Contracting Party may choose the means of transmittal of communications and whether it accepts communications on paper, communications in electronic form or any other form of communication.

(2) [*Language of Communications*]

(a) Any Contracting Party may require that any communication be in a language admitted by the Office. Where the Office admits more than one language, the applicant, holder or other interested person may be required to comply with any other language requirement applicable with respect to the Office, provided that no indication or element of the communication may be required to be in more than one language.

(b) No Contracting Party may require the attestation, notarization, authentication, legalization or any other certification of any translation of a communication other than as provided under this Treaty.

(c) Where a Contracting Party does not require a communication to be in a language admitted by its Office, the Office may require that a translation of that communication by an official translator or a representative, into a language admitted by the Office, be supplied within a reasonable time limit.

(3) [*Signature of Communications on Paper*]

(a) Any Contracting Party may require that a communication on paper be signed by the applicant, holder or other interested person. Where a Contracting Party requires a communication on paper to be signed, that Contracting Party shall accept any signature that complies with the requirements prescribed in the Regulations.

(b) No Contracting Party may require the attestation, notarization, authentication, legalization or other certification of any signature except, where the law of the Contracting Party so provides, if the signature concerns the surrender of a registration.

(c) Notwithstanding subparagraph (b), a Contracting Party may require that evidence be filed with the Office where the Office may reasonably doubt the authenticity of any signature of a communication on paper.

(4) [*Communications Filed in Electronic Form or by Electronic Means of Transmittal*] Where a Contracting Party permits the filing of communications in electronic form or by electronic means of transmittal, it may require that any such communications comply with the requirements prescribed in the Regulations.

(5) [*Presentation of a Communication*] Any Contracting Party shall accept the presentation of a communication the content of which corresponds to the relevant Model International Form, if any, provided for in the Regulations.

(6) [*Prohibition of Other Requirements*] No Contracting Party may demand that, in respect of paragraphs (1) to (5), requirements other than those referred to in this Article be complied with.

(7) [*Means of Communication with Representative*] Nothing in this Article regulates the means of communication between an applicant, holder or other interested person and its representative.

(4) [*Prohibition of Requirement of Certification*]

No Contracting Party may require the attestation, notarization, authentication, legalization or other certification of any signature or other means of self-identification referred to in the preceding paragraphs, except, if the law of the Contracting Party so provides, where the signature concerns the surrender of a registration.

*Article 9**Classification of Goods and/or Services*

(1) [*Indications of Goods and/or Services*] Each registration and any publication effected by an Office which concerns an application or registration and which indicates goods and/or services shall indicate the goods and/or services by their names, grouped according to the classes of the Nice Classification, and each group shall be preceded by the number of the class of that Classification to which that group of goods or services belongs and shall be presented in the order of the classes of the said Classification.

(2) [*Goods or Services in the Same Class or in Different Classes*]

(a) Goods or services may not be considered as being similar to each other on the ground that, in any registration or publication by the Office, they appear in the same class of the Nice Classification.

(b) Goods or services may not be considered as being dissimilar from each other on the ground that, in any registration or publication by the Office, they appear in different classes of the Nice Classification.

*Article 10**Changes in Names or Addresses*

(1) [*Changes in the Name or Address of the Holder*]

(a) Where there is no change in the person of the holder but there is a change in his name and/or address, each Contracting Party shall accept that a request for the recordal of the change by the Office in its register of marks be made in a communication signed by the holder or his representative and indicating the registration number of the registration concerned and the change to be recorded. As regards the requirements concerning the presentation of the request, no Contracting Party shall refuse the request,

(i) where the request is presented in writing on paper, if it is presented, subject to subparagraph (c), on a form corresponding to the request Form provided for in the Regulations,

(ii) where the Contracting Party allows the transmittal of communications to the Office by telefacsimile and the request is so transmitted, if the paper copy resulting from such transmittal corresponds, subject to subparagraph (c), to the request Form referred to in item (i).

*Article 9**Classification of Goods and/or Services*

(1) [*Indications of Goods and/or Services*] Each registration and any publication effected by an Office which concerns an application or registration and which indicates goods and/or services shall indicate the goods and/or services by their names, grouped according to the classes of the Nice Classification, and each group shall be preceded by the number of the class of that Classification to which that group of goods or services belongs and shall be presented in the order of the classes of the said Classification.

(2) [*Goods or Services in the Same Class or in Different Classes*]

(a) Goods or services may not be considered as being similar to each other on the ground that, in any registration or publication by the Office, they appear in the same class of the Nice Classification.

(b) Goods or services may not be considered as being dissimilar from each other on the ground that, in any registration or publication by the Office, they appear in different classes of the Nice Classification.

*Article 10**Changes in Names or Addresses*

(1) [*Changes in the Name or Address of the Holder*]

(a) Where there is no change in the person of the holder but there is a change in its name and/or address, each Contracting Party shall accept that a request for the recordal of the change by the Office in its register of marks be made by the holder in a communication indicating the registration number of the registration concerned and the change to be recorded.

(b) Any Contracting Party may require that the request indicate

(i) the name and address of the holder;

(ii) where the holder has a representative, the name and address of that representative;

(iii) where the holder has an address for service, such address.

(c) Any Contracting Party may require that the request be in the language, or in one of the languages, admitted by the Office.

(d) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(e) A single request shall be sufficient even where the change relates to more than one registration, provided that the registration numbers of all registrations concerned are indicated in the request.

(2) [*Change in the Name or Address of the Applicant*] Paragraph (1) shall apply, *mutatis mutandis*, where the change concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or his representative, the request otherwise identifies that application as prescribed in the Regulations.

(3) [*Change in the Name or Address of the Representative or in the Address for Service*] Paragraph (1) shall apply, *mutatis mutandis*, to any change in the name or address of the representative, if any, and to any change relating to the address for service, if any.

(4) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (3) be complied with in respect of the request referred to in this Article. In particular, the furnishing of any certificate concerning the change may not be required.

(5) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in the request.

(b) Any Contracting Party may require that the request indicate

(i) the name and address of the holder;

(ii) where the holder has a representative, the name and address of that representative;

(iii) where the holder has an address for service, such address.

(c) Any Contracting Party may require that the request be in the language, or in one of the languages, admitted by the Office.

(d) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(e) A single request shall be sufficient even where the change relates to more than one registration, provided that the registration numbers of all registrations concerned are indicated in the request.

(2) [*Change in the Name or Address of the Applicant*] Paragraph (1) shall apply, *mutatis mutandis*, where the change concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or its representative, the request otherwise identifies that application as prescribed in the Regulations.

(3) [*Change in the Name or Address of the Representative or in the Address for Service*] Paragraph (1) shall apply, *mutatis mutandis*, to any change in the name or address of the representative, if any, and to any change relating to the address for service, if any.

(4) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (3) and in Article 8 be complied with in respect of the request referred to in this Article. In particular, the furnishing of any certificate concerning the change may not be required.

(5) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in the request.

*Article 11*  
*Change in Ownership*

(1) [*Change in the Ownership of a Registration*]

(a) Where there is a change in the person of the holder, each Contracting Party shall accept that a request for the recordal of the change by the Office in its register of marks be made in a communication signed by the holder or his representative, or by the person who acquired the ownership (hereinafter referred to as “new owner”) or his representative, and indicating the registration number of the registration concerned and the change to be recorded. As regards the requirements concerning the presentation of the request, no Contracting Party shall refuse the request,

(i) where the request is presented in writing on paper, if it is presented, subject to paragraph (2)(a), on a form corresponding to the request Form provided for in the Regulations,

(ii) where the Contracting Party allows the transmittal of communications to the Office by telefacsimile and the request is so transmitted, if the paper copy resulting from such transmittal corresponds, subject to paragraph (2)(a), to the request Form referred to in item (i).

(b) Where the change in ownership results from a contract, any Contracting Party may require that the request indicate that fact and be accompanied, at the option of the requesting party, by one of the following:

(i) a copy of the contract, which copy may be required to be certified, by a notary public or any other competent public authority, as being in conformity with the original contract;

(ii) an extract of the contract showing the change in ownership, which extract may be required to be certified, by a notary public or any other competent public authority, as being a true extract of the contract;

(iii) an uncertified certificate of transfer drawn up in the form and with the content as prescribed in the Regulations and signed by both the holder and the new owner;

(iv) an uncertified transfer document drawn up in the form and with the content as prescribed in the Regulations and signed by both the holder and the new owner.

*Article 11*  
*Change in Ownership*

(1) [*Change in the Ownership of a Registration*]

(a) Where there is a change in the person of the holder, each Contracting Party shall accept that a request for the recordal of the change by the Office in its register of marks be made by the holder or by the person who acquired the ownership (hereinafter referred to as “new owner”) in a communication indicating the registration number of the registration concerned and the change to be recorded.

(b) Where the change in ownership results from a contract, any Contracting Party may require that the request indicate that fact and be accompanied, at the option of the requesting party, by one of the following:

(i) a copy of the contract, which copy may be required to be certified, by a notary public or any other competent public authority, as being in conformity with the original contract;

(ii) an extract of the contract showing the change in ownership, which extract may be required to be certified, by a notary public or any other competent public authority, as being a true extract of the contract;

(iii) an uncertified certificate of transfer drawn up in the form and with the content as prescribed in the Regulations and signed by both the holder and the new owner;

(iv) an uncertified transfer document drawn up in the form and with the content as prescribed in the Regulations and signed by both the holder and the new owner.

(c) Where the change in ownership results from a merger, any Contracting Party may require that the request indicate that fact and be accompanied by a copy of a document, which document originates from the competent authority and evidences the merger, such as a copy of an extract from a register of commerce, and that that copy be certified by the authority which issued the document or by a notary public or any other competent public authority, as being in conformity with the original document.

(d) Where there is a change in the person of one or more but not all of several co-holders and such change in ownership results from a contract or a merger, any Contracting Party may require that any co-holder in respect of which there is no change in ownership give his express consent to the change in ownership in a document signed by him.

(e) Where the change in ownership does not result from a contract or a merger but from another ground, for example, from operation of law or a court decision, any Contracting Party may require that the request indicate that fact and be accompanied by a copy of a document evidencing the change and that that copy be certified as being in conformity with the original document by the authority which issued the document or by a notary public or any other competent public authority.

(f) Any Contracting Party may require that the request indicate

(i) the name and address of the holder;

(ii) the name and address of the new owner;

(iii) the name of a State of which the new owner is a national if he is the national of any State, the name of a State in which the new owner has his domicile, if any, and the name of a State in which the new owner has a real and effective industrial or commercial establishment, if any;

(iv) where the new owner is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;

(v) where the holder has a representative, the name and address of that representative;

(vi) where the holder has an address for service, such address;

(c) Where the change in ownership results from a merger, any Contracting Party may require that the request indicate that fact and be accompanied by a copy of a document, which document originates from the competent authority and evidences the merger, such as a copy of an extract from a register of commerce, and that that copy be certified by the authority which issued the document or by a notary public or any other competent public authority, as being in conformity with the original document.

(d) Where there is a change in the person of one or more but not all of several co-holders and such change in ownership results from a contract or a merger, any Contracting Party may require that any co-holder in respect of which there is no change in ownership give its express consent to the change in ownership in a document signed by it.

(e) Where the change in ownership does not result from a contract or a merger but from another ground, for example, from operation of law or a court decision, any Contracting Party may require that the request indicate that fact and be accompanied by a copy of a document evidencing the change and that that copy be certified as being in conformity with the original document by the authority which issued the document or by a notary public or any other competent public authority.

(f) Any Contracting Party may require that the request indicate

(i) the name and address of the holder;

(ii) the name and address of the new owner;

(iii) the name of a State of which the new owner is a national if he/she is the national of any State, the name of a State in which the new owner has his/her domicile, if any, and the name of a State in which the new owner has a real and effective industrial or commercial establishment, if any;

(iv) where the new owner is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;

(v) where the holder has a representative, the name and address of that representative;

(vi) where the holder has an address for service, such address;



(vii) where the new owner has a representative, the name and address of that representative;

(viii) where the new owner is required to have an address for service under Article 4(2)(b), such address.

(g) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(h) A single request shall be sufficient even where the change relates to more than one registration, provided that the holder and the new owner are the same for each registration and that the registration numbers of all registrations concerned are indicated in the request.

(i) Where the change of ownership does not affect all the goods and/or services listed in the holder's registration, and the applicable law allows the recording of such change, the Office shall create a separate registration referring to the goods and/or services in respect of which the ownership has changed.

(2) [*Language; Translation*]

(a) Any Contracting Party may require that the request, the certificate of transfer or the transfer document referred to in paragraph (1) be in the language, or in one of the languages, admitted by the Office.

(b) Any Contracting Party may require that, if the documents referred to in paragraph (1)(b)(i) and (1)(b)(ii), (1)(c) and (1)(e) are not in the language, or in one of the languages, admitted by the Office, the request be accompanied by a translation or a certified translation of the required document in the language, or in one of the languages, admitted by the Office.

(3) [*Change in the Ownership of an Application*] Paragraphs (1) and (2) shall apply, *mutatis mutandis*, where the change in ownership concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or his representative, the request otherwise identifies that application as prescribed in the Regulations.

(4) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (3) be complied with in respect of the request referred to in this Article. In particular, the following may not be required:

(vii) where the new owner has a representative, the name and address of that representative;

(viii) where the new owner is required to have an address for service under Article 4(2)(b), such address.

(g) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(h) A single request shall be sufficient even where the change relates to more than one registration, provided that the holder and the new owner are the same for each registration and that the registration numbers of all registrations concerned are indicated in the request.

(i) Where the change of ownership does not affect all the goods and/or services listed in the holder's registration, and the applicable law allows the recording of such change, the Office shall create a separate registration referring to the goods and/or services in respect of which the ownership has changed.

(2) [*Change in the Ownership of an Application*]

Paragraph (1) shall apply, *mutatis mutandis*, where the change in ownership concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or its representative, the request otherwise identifies that application as prescribed in the Regulations.

(3) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) and in Article 8 be complied with in respect of the request referred to in this Article. In particular, the following may not be required:

(i) subject to paragraph (1)(c), the furnishing of any certificate of, or extract from, a register of commerce;

(ii) an indication of the new owner's carrying on of an industrial or commercial activity, as well as the furnishing of evidence to that effect;

(iii) an indication of the new owner's carrying on of an activity corresponding to the goods and/or services affected by the change in ownership, as well as the furnishing of evidence to either effect;

(iv) an indication that the holder transferred, entirely or in part, his business or the relevant goodwill to the new owner, as well as the furnishing of evidence to either effect.

(5) [*Evidence*] Any Contracting Party may require that evidence, or further evidence where paragraph (1)(c) or (1)(e) applies, be furnished to the Office where that Office may reasonably doubt the veracity of any indication contained in the request or in any document referred to in the present Article.

*Article 12*  
*Correction of a Mistake*

(1) [*Correction of a Mistake in Respect of a Registration*]

(a) Each Contracting Party shall accept that the request for the correction of a mistake which was made in the application or other request communicated to the Office and which mistake is reflected in its register of marks and/or any publication by the Office be made in a communication signed by the holder or his representative and indicating the registration number of the registration concerned, the mistake to be corrected and the correction to be entered. As regards the requirements concerning the presentation of the request, no Contracting Party shall refuse the request,

(i) where the request is presented in writing on paper, if it is presented, subject to subparagraph (c), on a form corresponding to the request Form provided for in the Regulations,

(ii) where the Contracting Party allows the transmittal of communications to the Office by telefacsimile and the request is so transmitted, if the paper copy resulting from such transmittal corresponds, subject to subparagraph (c), to the request Form referred to in item (i).

(i) subject to paragraph (1)(c), the furnishing of any certificate of, or extract from, a register of commerce;

(ii) an indication of the new owner's carrying on of an industrial or commercial activity, as well as the furnishing of evidence to that effect;

(iii) an indication of the new owner's carrying on of an activity corresponding to the goods and/or services affected by the change in ownership, as well as the furnishing of evidence to either effect;

(iv) an indication that the holder transferred, entirely or in part, its business or the relevant goodwill to the new owner, as well as the furnishing of evidence to either effect.

(4) [*Evidence*] Any Contracting Party may require that evidence, or further evidence where paragraph (1)(c) or (e) applies, be furnished to the Office where that Office may reasonably doubt the veracity of any indication contained in the request or in any document referred to in the present Article.

*Article 12*  
*Correction of a Mistake*

(1) [*Correction of a Mistake in Respect of a Registration*]

(a) Each Contracting Party shall accept that the request for the correction of a mistake which was made in the application or other request communicated to the Office and which mistake is reflected in its register of marks and/or any publication by the Office be made by the holder in a communication indicating the registration number of the registration concerned, the mistake to be corrected and the correction to be entered.

(b) Any Contracting Party may require that the request indicate

(i) the name and address of the holder;

(ii) where the holder has a representative, the name and address of that representative;

(iii) where the holder has an address for service, such address.

(c) Any Contracting Party may require that the request be in the language, or in one of the languages, admitted by the Office.

(d) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(e) A single request shall be sufficient even where the correction relates to more than one registration of the same person, provided that the mistake and the requested correction are the same for each registration and that the registration numbers of all registrations concerned are indicated in the request.

(2) [*Correction of a Mistake in Respect of an Application*] Paragraph (1) shall apply, *mutatis mutandis*, where the mistake concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or his representative, the request otherwise identifies that application as prescribed in the Regulations.

(3) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) be complied with in respect of the request referred to in this Article.

(4) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt that the alleged mistake is in fact a mistake.

(5) [*Mistakes Made by the Office*] The Office of a Contracting Party shall correct its own mistakes, *ex officio* or upon request, for no fee.

(6) [*Uncorrectable Mistakes*] No Contracting Party shall be obliged to apply paragraphs (1), (2) and (5) to any mistake which cannot be corrected under its law.

(b) Any Contracting Party may require that the request indicate

(i) the name and address of the holder;

(ii) where the holder has a representative, the name and address of that representative;

(iii) where the holder has an address for service, such address.

(c) Any Contracting Party may require that the request be in the language, or in one of the languages, admitted by the Office.

(d) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(e) A single request shall be sufficient even where the correction relates to more than one registration of the same person, provided that the mistake and the requested correction are the same for each registration and that the registration numbers of all registrations concerned are indicated in the request.

(2) [*Correction of a Mistake in Respect of an Application*] Paragraph (1) shall apply, *mutatis mutandis*, where the mistake concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or its representative, the request otherwise identifies that application as prescribed in the Regulations.

(3) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) and in Article 8 be complied with in respect of the request referred to in this Article.

(4) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt that the alleged mistake is in fact a mistake.

(5) [*Mistakes Made by the Office*] The Office of a Contracting Party shall correct its own mistakes, *ex officio* or upon request, for no fee.

(6) [*Uncorrectable Mistakes*] No Contracting Party shall be obliged to apply paragraphs (1), (2) and (5) to any mistake which cannot be corrected under its law.

*Article 13**Duration and Renewal of Registration*

(1) [Indications or Elements Contained in or Accompanying a Request for Renewal; Fee]

(a) Any Contracting Party may require that the renewal of a registration be subject to the filing of a request and that such request contain some or all of the following indications:

(i) an indication that renewal is sought;

(ii) the name and address of the holder;

(iii) the registration number of the registration concerned;

(iv) at the option of the Contracting Party, the filing date of the application which resulted in the registration concerned or the registration date of the registration concerned;

(v) where the holder has a representative, the name and address of that representative;

(vi) where the holder has an address for service, such address;

(vii) where the Contracting Party allows the renewal of a registration to be made for some only of the goods and/or services which are recorded in the register of marks and such a renewal is requested, the names of the recorded goods and/or services for which the renewal is requested or the names of the recorded goods and/or services for which the renewal is not requested, grouped according to the classes of the Nice Classification, each group preceded by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;

(viii) where a Contracting Party allows a request for renewal to be filed by a person other than the holder or his representative and the request is filed by such a person, the name and address of that person;

(ix) a signature by the holder or his representative or, where item (viii) applies, a signature by the person referred to in that item.

*Article 13**Duration and Renewal of Registration*

(1) [Indications or Elements Contained in or Accompanying a Request for Renewal; Fee]

(a) Any Contracting Party may require that the renewal of a registration be subject to the filing of a request and that such request contain some or all of the following indications:

(i) an indication that renewal is sought;

(ii) the name and address of the holder;

(iii) the registration number of the registration concerned;

(iv) at the option of the Contracting Party, the filing date of the application which resulted in the registration concerned or the registration date of the registration concerned;

(v) where the holder has a representative, the name and address of that representative;

(vi) where the holder has an address for service, such address;

(vii) where the Contracting Party allows the renewal of a registration to be made for some only of the goods and/or services which are recorded in the register of marks and such a renewal is requested, the names of the recorded goods and/or services for which the renewal is requested or the names of the recorded goods and/or services for which the renewal is not requested, grouped according to the classes of the Nice Classification, each group preceded by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;

(viii) where a Contracting Party allows a request for renewal to be filed by a person other than the holder or its representative and the request is filed by such a person, the name and address of that person.

(b) Any Contracting Party may require that, in respect of the request for renewal, a fee be paid to the Office. Once the fee has been paid in respect of the initial period of the registration or of any renewal period, no further payment may be required for the maintenance of the registration in respect of that period. Fees associated with the furnishing of a declaration and/or evidence of use shall not be regarded, for the purposes of this subparagraph, as payments required for the maintenance of the registration and shall not be affected by this subparagraph.

(c) Any Contracting Party may require that the request for renewal be presented, and the corresponding fee referred to in subparagraph (b) be paid, to the Office within the period fixed by the law of the Contracting Party, subject to the minimum periods prescribed in the Regulations.

(2) [*Presentation*] As regards the requirements concerning the presentation of the request for renewal, no Contracting Party shall refuse the request,

(i) where the request is presented in writing on paper, if it is presented, subject to paragraph (3), on a form corresponding to the request Form provided for in the Regulations,

(ii) where the Contracting Party allows the transmittal of communications to the Office by telefacsimile and the request is so transmitted, if the paper copy resulting from such transmittal corresponds, subject to paragraph (3), to the request Form referred to in item (i).

(3) [*Language*] Any Contracting Party may require that the request for renewal be in the language, or in one of the languages, admitted by the Office.

(4) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (3) be complied with in respect of the request for renewal. In particular, the following may not be required:

(i) any reproduction or other identification of the mark;

(ii) the furnishing of evidence to the effect that the mark has been registered, or that its registration has been renewed, in the register of marks of any other Contracting Party;

(iii) the furnishing of a declaration and/or evidence concerning use of the mark.

(b) Any Contracting Party may require that, in respect of the request for renewal, a fee be paid to the Office. Once the fee has been paid in respect of the initial period of the registration or of any renewal period, no further payment may be required for the maintenance of the registration in respect of that period. Fees associated with the furnishing of a declaration and/or evidence of use shall not be regarded, for the purposes of this subparagraph, as payments required for the maintenance of the registration and shall not be affected by this subparagraph.

(c) Any Contracting Party may require that the request for renewal be presented, and the corresponding fee referred to in subparagraph (b) be paid, to the Office within the period fixed by the law of the Contracting Party, subject to the minimum periods prescribed in the Regulations.

(2) [*Presentation*] As regards the requirements concerning the presentation of the request for renewal, no Contracting Party shall refuse the request,

(i) where the request is presented in writing on paper, if it is presented, subject to paragraph (3), on a form corresponding to the request Form provided for in the Regulations,

(ii) where the Contracting Party allows the transmittal of communications to the Office by telefacsimile and the request is so transmitted, if the paper copy resulting from such transmittal corresponds, subject to paragraph (3), to the request Form referred to in item (i).

(3) [*Language*] Any Contracting Party may require that the request for renewal be in the language, or in one of the languages, admitted by the Office.

(4) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraph (1) and in Article 8 be complied with in respect of the request for renewal. In particular, the following may not be required:

(i) any representation or other identification of the mark;

(ii) the furnishing of evidence to the effect that the mark has been registered, or that its registration has been renewed, in any other register of marks;

(iii) the furnishing of a declaration and/or evidence concerning use of the mark.

(5) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office in the course of the examination of the request for renewal where the Office may reasonably doubt the veracity of any indication or element contained in the request for renewal.

(6) [*Prohibition of Substantive Examination*] No Office of a Contracting Party may, for the purposes of effecting the renewal, examine the registration as to substance.

(7) [*Duration*] The duration of the initial period of the registration, and the duration of each renewal period, shall be 10 years.

*Article 14*

*Observations in Case of Intended Refusal*

An application or a request under Articles 10 to 13 may not be refused totally or in part by an Office without giving the applicant or the requesting party, as the case may be, an opportunity to make observations on the intended refusal within a reasonable time limit.

(3) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office in the course of the examination of the request for renewal where the Office may reasonably doubt the veracity of any indication or element contained in the request for renewal.

(4) [*Prohibition of Substantive Examination*] No Office of a Contracting Party may, for the purposes of effecting the renewal, examine the registration as to substance.

(5) [*Duration*] The duration of the initial period of the registration, and the duration of each renewal period, shall be 10 years.

[See Article 21]

*Article 14*

*Relief Measures in Case of Failure to Comply with Time Limits*

(1) [*Relief Measure Before the Expiry of a Time Limit*] A Contracting Party may provide for the extension of a time limit for an action in a procedure before the Office in respect of an application or a registration, if a request to that effect is filed with the Office prior to the expiry of the time limit.

(2) [*Relief Measures After the Expiry of a Time Limit*] Where an applicant, holder or other interested person has failed to comply with a time limit (“the time limit concerned”) for an action in a procedure before the Office of a Contracting Party in respect of an application or a registration, the Contracting Party shall provide for one or more of the following relief measures, in accordance with the requirements prescribed in the Regulations, if a request to that effect is filed with the Office:

(i) extension of the time limit concerned for the period prescribed in the Regulations;

(ii) continued processing with respect to the application or registration;

(iii) reinstatement of the rights of the applicant, holder or other interested person with respect to the application or registration if the Office finds that the failure to comply with the time limit concerned occurred in spite of due care required by the circumstances having been taken or, at the option of the Contracting Party, that the failure was unintentional.

(3) [*Exceptions*] No Contracting Party shall be required to provide for any of the relief measures referred to in paragraph (2) with respect to the exceptions prescribed in the Regulations.

(4) [*Fee*] Any Contracting Party may require that a fee be paid in respect of any of the relief measures referred to in paragraphs (1) and (2).

(5) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in this Article and in Article 8 be complied with in respect of any of the relief measures referred to in paragraph (2).

*Article 15*

*Obligation to Comply with the Paris Convention*

Any Contracting Party shall comply with the provisions of the Paris Convention which concern marks.

*Article 16*  
*Service Marks*

Any Contracting Party shall register service marks and apply to such marks the provisions of the Paris Convention which concern trademarks.

*Article 15*

*Obligation to Comply with the Paris Convention*

Any Contracting Party shall comply with the provisions of the Paris Convention which concern marks.

*Article 16*  
*Service Marks*

Any Contracting Party shall register service marks and apply to such marks the provisions of the Paris Convention which concern trademarks.

*Article 17*

*Request for Recordal of a License*

(1) [*Requirements Concerning the Request for Recordal*] Where the law of a Contracting Party provides for the recordal of a license with its Office, that Contracting Party may require that the request for recordal

(i) be filed in accordance with the requirements prescribed in the Regulations, and

(ii) be accompanied by the supporting documents prescribed in the Regulations.

(2) [*Fee*] Any Contracting Party may require that, in respect of the recordal of a license, a fee be paid to the Office.

(3) [*Single Request Relating to Several Registrations*] A single request shall be sufficient even where the license relates to more than one registration, provided that the registration numbers of all registrations concerned are indicated in the request, the holder and the licensee are the same for all registrations, and the request indicates the scope of the license in accordance with the Regulations with respect to all registrations.

(4) [*Prohibition of Other Requirements*]

(a) No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (3) and in Article 8 be complied with in respect of the recordal of a license with its Office. In particular, the following may not be required:

(i) the furnishing of the registration certificate of the mark which is the subject of the license;

(ii) the furnishing of the license contract or a translation of it;

(iii) an indication of the financial terms of the license contract.

(b) Subparagraph (a) is without prejudice to any obligations existing under the law of a Contracting Party concerning the disclosure of information for purposes other than the recording of the license in the register of marks.

(5) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in the request or in any document referred to in the Regulations.

(6) [*Requests Relating to Applications*] Paragraphs (1) to (5) shall apply, *mutatis mutandis*, to requests for recordal of a license for an application, where the law of a Contracting Party provides for such recordal.

*Article 18**Request for Amendment or Cancellation of the Recordal of a License*

(1) [*Requirements Concerning the Request*] Where the law of a Contracting Party provides for the recordal of a license with its Office, that Contracting Party may require that the request for amendment or cancellation of the recordal of a license

(i) be filed in accordance with the requirements prescribed in the Regulations, and

(ii) be accompanied by the supporting documents prescribed in the Regulations.

(2) [*Other Requirements*] Article 17(2) to (6) shall apply, *mutatis mutandis*, to requests for amendment or cancellation of the recordal of a license.



*Article 19**Effects of the Non-Recordal of a License*

(1) [*Validity of the Registration and Protection of the Mark*] The non-recordal of a license with the Office or with any other authority of the Contracting Party shall not affect the validity of the registration of the mark which is the subject of the license or the protection of that mark.

(2) [*Certain Rights of the Licensee*] A Contracting Party may not require the recordal of a license as a condition for any right that the licensee may have under the law of that Contracting Party to join infringement proceedings initiated by the holder or to obtain, by way of such proceedings, damages resulting from an infringement of the mark which is the subject of the license.

(3) [*Use of a Mark Where License Is Not Recorded*] A Contracting Party may not require the recordal of a license as a condition for the use of a mark by a licensee to be deemed to constitute use by the holder in proceedings relating to the acquisition, maintenance and enforcement of marks.

*Article 20**Indication of the License*

Where the law of a Contracting Party requires an indication that the mark is used under a license, full or partial non-compliance with that requirement shall not affect the validity of the registration of the mark which is the subject of the license or the protection of that mark, and shall not affect the application of Article 19(3).

*Article 21**Observations in Case of Intended Refusal*

An application under Article 3 or a request under Articles 7, 10 to 14, 17 and 18 may not be refused totally or in part by an Office without giving the applicant or the requesting party, as the case may be, an opportunity to make observations on the intended refusal within a reasonable time limit. In respect of Article 14, no Office shall be required to give an opportunity to make observations where the person requesting the relief measure has already had an opportunity to present an observation on the facts on which the decision is to be based.

[See Article 14]

*Article 17*  
*Regulations*

(1) [Content]

(a) The Regulations annexed to this Treaty provide rules concerning

(i) matters which this Treaty expressly provides to be “prescribed in the Regulations”;

(ii) any details useful in the implementation of the provisions of this Treaty;

(iii) any administrative requirements, matters or procedures.

(b) The Regulations also contain Model International Forms.

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

*Article 22*  
*Regulations*

(1) [Content]

(a) The Regulations annexed to this Treaty provide rules concerning

(i) matters which this Treaty expressly provides to be “prescribed in the Regulations”;

(ii) any details useful in the implementation of the provisions of this Treaty;

(iii) any administrative requirements, matters or procedures.

(b) The Regulations also contain Model International Forms.

(2) [Amending the Regulations] Subject to paragraph (3), any amendment of the Regulations shall require three-fourths of the votes cast.

(3) [Requirement of Unanimity]

(a) The Regulations may specify provisions of the Regulations which may be amended only by unanimity.

(b) Any amendment of the Regulations resulting in the addition of provisions to, or the deletion of provisions from, the provisions specified in the Regulations pursuant to subparagraph (a) shall require unanimity.

(c) In determining whether unanimity is attained, only votes actually cast shall be taken into consideration. Abstentions shall not be considered as votes.

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

*Article 23*  
*Assembly*

(1) [Composition]

The Contracting Parties shall have an Assembly.

(a) Each Contracting Party shall be represented in the Assembly by one delegate, who may be assisted by alternate delegates, advisors and experts. Each delegate may represent only one Contracting Party.

## (2) [Tasks] The Assembly shall

(i) deal with matters concerning the development of this Treaty;

(ii) amend the Regulations, including the Model International Forms;

(iii) determine the conditions for the date of application of each amendment referred to in item (ii);

(iv) perform such other functions as are appropriate to implementing the provisions of this Treaty.

## (3) [Quorum]

(a) One-half of the members of the Assembly which are States shall constitute a quorum.

(b) Notwithstanding subparagraph (a), if, in any session, the number of the members of the Assembly which are States and are represented is less than one-half but equal to or more than one-third of the members of the Assembly which are States, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the members of the Assembly which are States and were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of such members having thus expressed their vote or abstention attains the number of the members which was lacking for attaining the quorum in the session itself, such decisions shall take effect, provided that at the same time the required majority still obtains.

## (4) [Taking Decisions in the Assembly]

(a) The Assembly shall endeavor to take its decisions by consensus.

(b) Where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. In such a case,

(i) each Contracting Party that is a State shall have one vote and shall vote only in its own name; and

(ii) any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its Member States which are party to this Treaty. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and vice versa. In addition, no such intergovernmental organization shall participate in the vote if any one of its Member States party to this Treaty is a Member State of another such intergovernmental organization and that other intergovernmental organization participates in that vote.

(5) [*Majorities*]

(a) Subject to Articles 22(2) and (3), the decisions of the Assembly shall require two-thirds of the votes cast.

(b) In determining whether the required majority is attained, only votes actually cast shall be taken into consideration. Abstentions shall not be considered as votes.

(6) [*Sessions*] The Assembly shall meet upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(7) [*Rules of Procedure*] The Assembly shall establish its own rules of procedure, including rules for the convocation of extraordinary sessions.

*Article 24*  
*International Bureau*

(1) [*Administrative Tasks*]

(a) The International Bureau shall perform the administrative tasks concerning this Treaty.

(b) In particular, the International Bureau shall prepare the meetings and provide the secretariat of the Assembly and of such committees of experts and working groups as may be established by the Assembly.

(2) [*Meetings Other than Sessions of the Assembly*] The Director General shall convene any committee and working group established by the Assembly.

(3) [*Role of the International Bureau in the Assembly and Other Meetings*]

(a) The Director General and persons designated by the Director General shall participate, without the right to vote, in all meetings of the Assembly, the committees and working groups established by the Assembly.

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

(4) [*Conferences*]

(a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for any revision conferences.

(b) The International Bureau may consult with Member States of the Organization, intergovernmental organizations and international and national non-governmental organizations concerning the said preparations.

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

(5) [*Other Tasks*] The International Bureau shall carry out any other tasks assigned to it in relation to this Treaty.

*Article 18*  
*Revision; Protocols*

(1) [*Revision*] This Treaty may be revised by a diplomatic conference.

(2) [*Protocols*] For the purposes of further developing the harmonization of laws on marks, protocols may be adopted by a diplomatic conference insofar as those protocols do not contravene the provisions of this Treaty.

*Article 19*  
*Becoming Party to the Treaty*

(1) [*Eligibility*] The following entities may sign and, subject to paragraphs (2) and (3) and Article 20(1) and 20(3), become party to this Treaty:

*Article 25*  
*Revision or Amendment*

This Treaty may only be revised or amended by a diplomatic conference. The convocation of any diplomatic conference shall be decided by the Assembly.

*Article 26*  
*Becoming Party to the Treaty*

(1) [*Eligibility*] The following entities may sign and, subject to paragraphs (2) and (3) and Article 28(1) and (3), become party to this Treaty:

(i) any State member of the Organization in respect of which marks may be registered with its own Office;

(ii) any intergovernmental organization which maintains an Office in which marks may be registered with effect in the territory in which the constituting treaty of the intergovernmental organization applies, in all its member States or in those of its member States which are designated for such purpose in the relevant application, provided that all the member States of the intergovernmental organization are members of the Organization;

(iii) any State member of the Organization in respect of which marks may be registered only through the Office of another specified State that is a member of the Organization;

(iv) any State member of the Organization in respect of which marks may be registered only through the Office maintained by an intergovernmental organization of which that State is a member;

(v) any State member of the Organization in respect of which marks may be registered only through an Office common to a group of States members of the Organization.

(2) [*Ratification or Accession*] Any entity referred to in paragraph (1) may deposit

(i) an instrument of ratification, if it has signed this Treaty,

(ii) an instrument of accession, if it has not signed this Treaty.

(3) [*Effective Date of Deposit*]

(a) Subject to subparagraph (b), the effective date of the deposit of an instrument of ratification or accession shall be,

(i) in the case of a State referred to in paragraph (1)(i), the date on which the instrument of that State is deposited;

(ii) in the case of an intergovernmental organization, the date on which the instrument of that intergovernmental organization is deposited;

(i) any State member of the Organization in respect of which marks may be registered with its own Office;

(ii) any intergovernmental organization which maintains an Office in which marks may be registered with effect in the territory in which the constituting treaty of the intergovernmental organization applies, in all its Member States or in those of its Member States which are designated for such purpose in the relevant application, provided that all the Member States of the intergovernmental organization are members of the Organization;

(iii) any State member of the Organization in respect of which marks may be registered only through the Office of another specified State that is a member of the Organization;

(iv) any State member of the Organization in respect of which marks may be registered only through the Office maintained by an intergovernmental organization of which that State is a member;

(v) any State member of the Organization in respect of which marks may be registered only through an Office common to a group of States members of the Organization.

(2) [*Ratification or Accession*] Any entity referred to in paragraph (1) may deposit

(i) an instrument of ratification, if it has signed this Treaty,

(ii) an instrument of accession, if it has not signed this Treaty.

(3) [*Effective Date of Deposit*] The effective date of the deposit of an instrument of ratification or accession shall be,

(i) in the case of a State referred to in paragraph (1)(i), the date on which the instrument of that State is deposited;

(ii) in the case of an intergovernmental organization, the date on which the instrument of that intergovernmental organization is deposited;

(iii) in the case of a State referred to in paragraph (1)(iii), the date on which the following condition is fulfilled: the instrument of that State has been deposited and the instrument of the other, specified State has been deposited;

(iv) in the case of a State referred to in paragraph (1)(iv), the date applicable under (ii), above;

(v) in the case of a State member of a group of States referred to in paragraph (1)(v), the date on which the instruments of all the States members of the group have been deposited.

(b) Any instrument of ratification or accession (referred to in this subparagraph as “instrument”) of a State may be accompanied by a declaration making it a condition to its being considered as deposited that the instrument of one other State or one intergovernmental organization, or the instruments of two other States, or the instruments of one other State and one intergovernmental organization, specified by name and eligible to become party to this Treaty, is or are also deposited. The instrument containing such a declaration shall be considered to have been deposited on the day on which the condition indicated in the declaration is fulfilled. However, when the deposit of any instrument specified in the declaration is, itself, accompanied by a declaration of the said kind, that instrument shall be considered as deposited on the day on which the condition specified in the latter declaration is fulfilled.

(c) Any declaration made under paragraph (b) may be withdrawn, in its entirety or in part, at any time. Any such withdrawal shall become effective on the date on which the notification of withdrawal is received by the Director General.

(iii) in the case of a State referred to in paragraph (1)(iii), the date on which the following condition is fulfilled: the instrument of that State has been deposited and the instrument of the other, specified State has been deposited;

(iv) in the case of a State referred to in paragraph (1)(iv), the date applicable under item (ii), above;

(v) in the case of a State member of a group of States referred to in paragraph (1)(v), the date on which the instruments of all the States members of the group have been deposited.

#### *Article 27*

##### *Application of the TLT 1994 and This Treaty*

(1) [*Relations Between Contracting Parties to Both This Treaty and the TLT 1994*] This Treaty alone shall be applicable as regards the mutual relations of Contracting Parties to both this Treaty and the TLT 1994.

(2) [*Relations Between Contracting Parties to This Treaty and Contracting Parties to the TLT 1994 That Are Not Party to This Treaty*] Any Contracting Party to both this Treaty and the TLT 1994 shall continue to apply the TLT 1994 in its relations with Contracting Parties to the TLT 1994 that are not party to this Treaty.

*Article 20**Effective Date of Ratifications and Accessions*

(1) [*Instruments to Be Taken Into Consideration*] For the purposes of this Article, only instruments of ratification or accession that are deposited by entities referred to in Article 19(1) and that have an effective date according to Article 19(3) shall be taken into consideration.

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

(3) [*Entry Into Force of Ratifications and Accessions Subsequent to the Entry Into Force of the Treaty*] Any entity not covered by paragraph (2) shall become bound by this Treaty three months after the date on which it has deposited its instrument of ratification or accession.

*Article 21**Reservations*

(1) [*Special Kinds of Marks*] Any State or intergovernmental organization may declare through a reservation that, notwithstanding Article 2(1)(a) and 2(2)(a), any of the provisions of Articles 3(1) and 3(2), 5, 7, 11 and 13 shall not apply to associated marks, defensive marks or derivative marks. Such reservation shall specify those of the aforementioned provisions to which the reservation relates.

*Article 28**Entry into Force;**Effective Date of Ratifications and Accessions*

(1) [*Instruments to Be Taken into Consideration*] For the purposes of this Article, only instruments of ratification or accession that are deposited by entities referred to in Article 26(1) and that have an effective date according to Article 26(3) shall be taken into consideration.

(2) [*Entry into Force of the Treaty*] This Treaty shall enter into force three months after ten States or intergovernmental organizations referred to in Article 26(1)(ii) have deposited their instruments of ratification or accession.

(3) [*Entry into Force of Ratifications and Accessions Subsequent to the Entry into Force of the Treaty*] Any entity not covered by paragraph (2) shall become bound by this Treaty three months after the date on which it has deposited its instrument of ratification or accession.

*Article 29**Reservations*

(1) [*Special Kinds of Marks*] Any State or intergovernmental organization may declare through a reservation that, notwithstanding Article 2(1) and (2)(a), any of the provisions of Articles 3(1), 5, 7, 8(5), 11 and 13 shall not apply to associated marks, defensive marks or derivative marks. Such reservation shall specify those of the aforementioned provisions to which the reservation relates.

(2) [*Multiple-class Registration*] Any State or intergovernmental organization, whose legislation at the date of adoption of this Treaty provides for a multiple-class registration for goods and for a multiple-class registration for services may, when acceding to this Treaty, declare through a reservation that the provisions of Article 6 shall not apply.

(3) [*Substantive Examination on the Occasion of Renewal*] Any State or intergovernmental organization may declare through a reservation that, notwithstanding Article 13(4), the Office may, on the occasion of the first renewal of a registration covering services, examine such registration as to substance, provided that such examination shall be limited to the elimination of multiple registrations based on applications filed during a period of six months following the entry into force of the law of such State or organization that introduced, before the entry into force of this Treaty, the possibility of registering service marks.



(4) [*Certain Rights of the Licensee*] Any State or intergovernmental organization may declare through a reservation that, notwithstanding Article 19(2), it requires the recordal of a license as a condition for any right that the licensee may have under the law of that State or intergovernmental organization to join infringement proceedings initiated by the holder or to obtain, by way of such proceedings, damages resulting from an infringement of the mark which is the subject of the license.

(2) [*Modalities*] Any reservation under paragraph (1) shall be made in a declaration accompanying the instrument of ratification of, or accession to, this Treaty of the State or intergovernmental organization making the reservation.

(5) [*Modalities*] Any reservation under paragraphs (1), (2), (3) or (4) shall be made in a declaration accompanying the instrument of ratification of, or accession to, this Treaty of the State or intergovernmental organization making the reservation.

(3) [*Withdrawal*] Any reservation under paragraph (1) may be withdrawn at any time.

(6) [*Withdrawal*] Any reservation under paragraphs (1), (2), (3) or (4) may be withdrawn at any time.

(4) [*Prohibition of Other Reservations*] No reservation to this Treaty other than the reservation allowed under paragraph (1) shall be permitted.

(7) [*Prohibition of Other Reservations*] No reservation to this Treaty other than the reservations allowed under paragraphs (1), (2), (3) and (4) shall be permitted.

*Article 22*  
*Transitional Provisions*

(1) [*Single Application for Goods and Services in Several Classes; Division of Application*]

(a) Any State or intergovernmental organization may declare that, notwithstanding Article 3(5), an application may be filed with the Office only in respect of goods or services which belong to one class of the Nice Classification.

(b) Any State or intergovernmental organization may declare that, notwithstanding Article 6, where goods and/or services belonging to several classes of the Nice Classification have been included in one and the same application, such application shall result in two or more registrations in the register of marks, provided that each and every such registration shall bear a reference to all other such registrations resulting from the said application.

(c) Any State or intergovernmental organization that has made a declaration under subparagraph (a) may declare that, notwithstanding Article 7(1), no application may be divided.

(2) [*Single Power of Attorney for More Than One Application and/or Registration*] Any State or intergovernmental organization may declare that, notwithstanding Article 4(3)(b), a power of attorney may only relate to one application or one registration.

(3) [*Prohibition of Requirement of Certification of Signature of Power of Attorney and of Signature of Application*] Any State or intergovernmental organization may declare that, notwithstanding Article 8(4), the signature of a power of attorney or the signature by the applicant of an application may be required to be the subject of an attestation, notarization, authentication, legalization or other certification.

(4) [*Single Request for More Than One Application and/or Registration in Respect of a Change in Name and/or Address, a Change in Ownership or a Correction of a Mistake*] Any State or intergovernmental organization may declare that, notwithstanding Article 10(1)(e), 10(2) and 10(3), Article 11(1)(h) and 11(3) and Article 12(1)(e) and 12(2), a request for the recordal of a change in name and/or address, a request for the recordal of a change in ownership and a request for the correction of a mistake may only relate to one application or one registration.

(5) [*Furnishing, on the Occasion of Renewal, of Declaration and/or Evidence Concerning Use*] Any State or intergovernmental organization may declare that, notwithstanding Article 13(4)(iii), it will require, on the occasion of renewal, the furnishing of a declaration and/or of evidence concerning use of the mark.

(6) [*Substantive Examination on the Occasion of Renewal*] Any State or intergovernmental organization may declare that, notwithstanding Article 13(6), the Office may, on the occasion of the first renewal of a registration covering services, examine such registration as to substance, provided that such examination shall be limited to the elimination of multiple registrations based on applications filed during a period of six months following the entry into force of the law of such State or organization that introduced, before the entry into force of this Treaty, the possibility of registering service marks.

(7) [*Common Provisions*]

(a) A State or an intergovernmental organization may make a declaration under paragraphs (1) to (6) only if, at the time of depositing its instrument of ratification of, or accession to, this Treaty, the continued application of its law would, without such a declaration, be contrary to the relevant provisions of this Treaty.

(b) Any declaration under paragraphs (1) to (6) shall accompany the instrument of ratification of, or accession to, this Treaty of the State or intergovernmental organization making the declaration.

(c) Any declaration made under paragraphs (1) to (6) may be withdrawn at any time.

(8) [*Loss of Effect of Declaration*]

(a) Subject to subparagraph (c), any declaration made under paragraphs (1) to (5) by a State regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations, or by an intergovernmental organization each member of which is such a State, shall lose its effect at the end of a period of eight years from the date of entry into force of this Treaty.

(b) Subject to subparagraph (c), any declaration made under paragraphs (1) to (5) by a State other than a State referred to in subparagraph (a), or by an intergovernmental organization other than an intergovernmental organization referred to in subparagraph (a), shall lose its effect at the end of a period of six years from the date of entry into force of this Treaty.

(c) Where a declaration made under paragraphs (1) to (5) has not been withdrawn under paragraph (7)(c), or has not lost its effect under subparagraph (a) or (b), before October 28, 2004, it shall lose its effect on October 28, 2004.

(9) [*Becoming Party to the Treaty*] Until December 31, 1999, any State which, on the date of the adoption of this Treaty, is a member of the International (Paris) Union for the Protection of Industrial Property without being a member of the Organization may, notwithstanding Article 19(1)(i), become a party to this Treaty if marks may be registered with its own Office.

*Article 23*  
*Denunciation of the Treaty*

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

*Article 30*  
*Denunciation of the Treaty*

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

(2) [*Effective Date*] Denunciation shall take effect one year from the date on which the Director General has received the notification. It shall not affect the application of this Treaty to any application pending or any mark registered in respect of the denouncing Contracting Party at the time of the expiration of the said one-year period, provided that the denouncing Contracting Party may, after the expiration of the said one-year period, discontinue applying this Treaty to any registration as from the date on which that registration is due for renewal.

*Article 24*  
*Languages of the Treaty; Signature*

(1) [*Original Texts; Official Texts*]

(a) This Treaty shall be signed in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic.

(b) At the request of a Contracting Party, an official text in a language not referred to in subparagraph (a) that is an official language of that Contracting Party shall be established by the Director General after consultation with the said Contracting Party and any other interested Contracting Party.

(2) [*Time Limit for Signature*] This Treaty shall remain open for signature at the headquarters of the Organization for one year after its adoption.

*Article 25*  
*Depositary*

The Director General shall be the depositary of this Treaty.

(2) [*Effective Date*] Denunciation shall take effect one year from the date on which the Director General has received the notification. It shall not affect the application of this Treaty to any application pending or any mark registered in respect of the denouncing Contracting Party at the time of the expiration of the said one-year period, provided that the denouncing Contracting Party may, after the expiration of the said one-year period, discontinue applying this Treaty to any registration as from the date on which that registration is due for renewal.

*Article 31*  
*Languages of the Treaty; Signature*

(1) [*Original Texts; Official Texts*]

(a) This Treaty shall be signed in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic.

(b) An official text in a language not referred to in subparagraph (a) that is an official language of a Contracting Party shall be established by the Director General after consultation with the said Contracting Party and any other interested Contracting Party.

(2) [*Time Limit for Signature*] This Treaty shall remain open for signature at the headquarters of the Organization for one year after its adoption.

*Article 32*  
*Depositary*

The Director General shall be the depositary of this Treaty.

Regulations under the  
Trademark Law TreatyRegulations under the  
Singapore Treaty on the Law of Trademarks*List of Rules**List of Rules*

- Rule 1: Abbreviated Expressions  
 Rule 2: Manner of Indicating Names and Addresses  
 Rule 3: Details Concerning the Application  
 Rule 4: Details Concerning Representation  
 Rule 5: Details Concerning the Filing Date  
 Rule 6: Details Concerning the Signature  
 Rule 7: Manner of Identification of an Application Without Its Application Number  
 Rule 8: Details Concerning Duration and Renewal

- Rule 1: Abbreviated Expressions  
 Rule 2: Manner of Indicating Names and Addresses  
 Rule 3: Details Concerning the Application  
 Rule 4: Details Concerning Representation and Address for Service  
 Rule 5: Details Concerning the Filing Date  
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 Rule 8: Details Concerning Duration and Renewal  
 Rule 9: Relief Measures in Case of Failure to Comply with Time Limits  
 Rule 10: Requirements Concerning the Request for Recordal of a License or for Amendment or Cancellation of the Recordal of a License

*List of Model International Forms**List of Model International Forms*

- Form No. 1: Application for the Registration of a Mark  
 Form No. 2: Power of Attorney  
 Form No. 3: Request for the Recordal of Change(s) in Name(s) and/or Address(es)  
 Form No. 4: Request for the Recordal of a Change in Ownership in Respect of Registration(s) and/or Application(s) for Registration of Marks  
 Form No. 5: Certificate of Transfer in Respect of Registration(s) and/or Application(s) for Registration of Marks  
 Form No. 6: Transfer Document in Respect of Registration(s) and/or Application(s) for Registration of Marks  
 Form No. 7: Request for the Correction of Mistake(s) in Registration(s) and/or Application(s) for Registration of Marks  
 Form No. 8: Request for the Renewal of a Registration

- Form No. 1: Application for the Registration of a Mark  
 Form No. 2: Power of Attorney  
 Form No. 3: Request for the Recordal of Change(s) in Name(s) and/or Address(es)  
 Form No. 4: Request for the Recordal of a Change in Ownership in Respect of Registration(s) and/or Application(s) for Registration of Marks  
 Form No. 5: Certificate of Transfer in Respect of Registration(s) and/or Application(s) for Registration of Marks  
 Form No. 6: Transfer Document in Respect of Registration(s) and/or Application(s) for Registration of Marks  
 Form No. 7: Request for the Correction of Mistake(s) in Registration(s) and/or Application(s) for Registration of Marks  
 Form No. 8: Request for the Renewal of a Registration  
 Form No. 9: Request for Recordal of License  
 Form No. 10: Statement of License  
 Form No. 11: Statement of Amendment of License  
 Form No. 12: Statement of Cancellation of License

*Rule 1*  
*Abbreviated Expressions*

(1) [“Treaty”; “Article”]

(a) In these Regulations, the word “Treaty” means the Trademark Law Treaty.

(b) In these Regulations, the word “Article” refers to the specified Article of the Treaty.

(2) [*Abbreviated Expressions Defined in the Treaty*] The abbreviated expressions defined in Article 1 for the purposes of the Treaty shall have the same meaning for the purposes of the Regulations.

*Rule 2*  
*Manner of Indicating Names and Addresses*

(1) [*Names*]

(a) Where the name of a person is to be indicated, any Contracting Party may require,

(i) where the person is a natural person, that the name to be indicated be the family or principal name and the given or secondary name or names of that person or that the name to be indicated be, at that person's option, the name or names customarily used by the said person;

(ii) where the person is a legal entity, that the name to be indicated be the full official designation of the legal entity.

*Rule 1*  
*Abbreviated Expressions*

(1) [*Abbreviated Expressions Defined in the Regulations*] For the purposes of these Regulations, unless expressly stated otherwise:

(i) “Treaty” means the Singapore Treaty on the Law of Trademarks;

(ii) “Article” refers to the specified Article of the Treaty;

(iii) “exclusive license” means a license which is only granted to one licensee and which excludes the holder from using the mark and from granting licenses to any other person;

(iv) “sole license” means a license which is only granted to one licensee and which excludes the holder from granting licenses to any other person but does not exclude the holder from using the mark;

(v) “non-exclusive license” means a license which does not exclude the holder from using the mark or from granting licenses to any other person.

(2) [*Abbreviated Expressions Defined in the Treaty*] The abbreviated expressions defined in Article 1 for the purposes of the Treaty shall have the same meaning for the purposes of these Regulations.

*Rule 2*  
*Manner of Indicating Names and Addresses*

(1) [*Names*]

(a) Where the name of a person is to be indicated, any Contracting Party may require,

(i) where the person is a natural person, that the name to be indicated be the family or principal name and the given or secondary name or names of that person or that the name to be indicated be, at that person's option, the name or names customarily used by the said person;

(ii) where the person is a legal entity, that the name to be indicated be the full official designation of the legal entity.

(b) Where the name of a representative which is a firm or partnership is to be indicated, any Contracting Party shall accept as indication of the name the indication that the firm or partnership customarily uses.

(2) [Addresses]

(a) Where the address of a person is to be indicated, any Contracting Party may require that the address be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address and, in any case, consist of all the relevant administrative units up to, and including, the house or building number, if any.

(b) Where a communication to the Office of a Contracting Party is in the name of two or more persons with different addresses, that Contracting Party may require that such communication indicate a single address as the address for correspondence.

(c) The indication of an address may contain a telephone number and a telefacsimile number and, for the purposes of correspondence, an address different from the address indicated under subparagraph (a).

(d) Subparagraphs (a) and (c) shall apply, *mutatis mutandis*, to addresses for service.

(3) [Script to Be Used] Any Contracting Party may require that any indication referred to in paragraphs (1) and (2) be in the script used by the Office.

*Rule 3*

*Details Concerning the Application*

(1) [Standard Characters] Where, pursuant to Article 3(1)(a)(ix), the application contains a statement to the effect that the applicant wishes that the mark be registered and published in the standard characters used by the Office of the Contracting Party, the Office shall register and publish that mark in such standard characters.

(b) Where the name of a representative which is a firm or partnership is to be indicated, any Contracting Party shall accept as indication of the name the indication that the firm or partnership customarily uses.

(2) [Addresses]

(a) Where the address of a person is to be indicated, any Contracting Party may require that the address be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address and, in any case, consist of all the relevant administrative units up to, and including, the house or building number, if any.

(b) Where a communication to the Office of a Contracting Party is in the name of two or more persons with different addresses, that Contracting Party may require that such communication indicate a single address as the address for correspondence.

(c) The indication of an address may contain a telephone number, a telefacsimile number and an e-mail address and, for the purposes of correspondence, an address different from the address indicated under subparagraph (a).

(d) Subparagraphs (a) and (c) shall apply, *mutatis mutandis*, to addresses for service.

(3) [Other Means of Identification] Any Contracting Party may require that a communication to the Office indicate the number or other means of identification, if any, with which the applicant, holder, representative or interested person is registered with its Office. No Contracting Party may refuse a communication on grounds of failure to comply with any such requirement, except for applications filed in electronic form.

(4) [Script to Be Used] Any Contracting Party may require that any indication referred to in paragraphs (1) to (3) be in the script used by the Office.

*Rule 3*

*Details Concerning the Application*

(1) [Standard Characters] Where the Office of a Contracting Party uses characters (letters and numbers) that it considers as being standard, and where the application contains a statement to the effect that the applicant wishes that the mark be registered and published in the standard characters used by the Office, the Office shall register and publish that mark in such standard characters.

(2) [*Mark Claiming Color*] Where the application contains a statement to the effect that the applicant wishes to claim color as a distinctive feature of the mark, the Office may require that the application indicate the name or code of the color or colors claimed and an indication, in respect of each color, of the principal parts of the mark which are in that color.

(2) [*Number of Reproductions*]

(a) Where the application does not contain a statement to the effect that the applicant wishes to claim color as a distinctive feature of the mark, a Contracting Party may not require more than

(i) five reproductions of the mark in black and white where the application may not, under the law of that Contracting Party, or does not contain a statement to the effect that the applicant wishes the mark to be registered and published in the standard characters used by the Office of the said Contracting Party;

(ii) one reproduction of the mark in black and white where the application contains a statement to the effect that the applicant wishes the mark to be registered and published in the standard characters used by the Office of that Contracting Party.

(b) Where the application contains a statement to the effect that the applicant wishes to claim color as a distinctive feature of the mark, a Contracting Party may not require more than five reproductions of the mark in black and white and five reproductions of the mark in color.

(3) [*Reproduction of a Three-Dimensional Mark*]

(a) Where, pursuant to Article 3(1)(a)(xi), the application contains a statement to the effect that the mark is a three-dimensional mark, the reproduction of the mark shall consist of a two-dimensional graphic or photographic reproduction.

(b) The reproduction furnished under subparagraph (a) may, at the option of the applicant, consist of one single view of the mark or of several different views of the mark.

(c) Where the Office considers that the reproduction of the mark furnished by the applicant under subparagraph (a) does not sufficiently show the particulars of the three-dimensional mark, it may invite the applicant to furnish, within a reasonable time limit fixed in the invitation, up to six different views of the mark and/or a description by words of that mark.

(3) [*Number of Reproductions*]

(a) Where the application does not contain a statement to the effect that the applicant wishes to claim color as a distinctive feature of the mark, a Contracting Party may not require more than

(i) five reproductions of the mark in black and white where the application may not, under the law of that Contracting Party, or does not contain a statement to the effect that the applicant wishes the mark to be registered and published in the standard characters used by the Office of the said Contracting Party;

(ii) one reproduction of the mark in black and white where the application contains a statement to the effect that the applicant wishes the mark to be registered and published in the standard characters used by the Office of that Contracting Party.

(b) Where the application contains a statement to the effect that the applicant wishes to claim color as a distinctive feature of the mark, a Contracting Party may not require more than five reproductions of the mark in black and white and five reproductions of the mark in color.

(4) [*Three-Dimensional Mark*]

(a) Where the application contains a statement to the effect that the mark is a three-dimensional mark, the reproduction of the mark shall consist of a two-dimensional graphic or photographic reproduction.

(b) The reproduction furnished under subparagraph (a) may, at the option of the applicant, consist of one single view of the mark or of several different views of the mark.

(c) Where the Office considers that the reproduction of the mark furnished by the applicant under subparagraph (a) does not sufficiently show the particulars of the three-dimensional mark, it may invite the applicant to furnish, within a reasonable time limit fixed in the invitation, up to six different views of the mark and/or a description by words of that mark.



(d) Where the Office considers that the different views and/or the description of the mark referred to in subparagraph (c) still do not sufficiently show the particulars of the three-dimensional mark, it may invite the applicant to furnish, within a reasonable time limit fixed in the invitation, a specimen of the mark.

(e) Paragraph (2)(a)(i) and (b) shall apply *mutatis mutandis*.

(4) [*Transliteration of the Mark*] For the purposes of Article 3(1)(a)(xiii), where the mark consists of or contains matter in script other than the script used by the Office or numbers expressed in numerals other than numerals used by the Office, a transliteration of such matter in the script and numerals used by the Office may be required.

(5) [*Translation of the Mark*] For the purposes of Article 3(1)(a)(xiv), where the mark consists of or contains a word or words in a language other than the language, or one of the languages, admitted by the Office, a translation of that word or those words into that language or one of those languages may be required.

(6) [*Time Limit for Furnishing Evidence of Actual Use of the Mark*] The time limit referred to in Article 3(6) shall not be shorter than six months counted from the date of allowance of the application by the Office of the Contracting Party where that application was filed. The applicant or holder shall have the right to an extension of that time limit, subject to the conditions provided for by the law of that Contracting Party, by periods of at least six months each, up to a total extension of at least two years and a half.

(d) Where the Office considers that the different views and/or the description of the mark referred to in subparagraph (c) still do not sufficiently show the particulars of the three-dimensional mark, it may invite the applicant to furnish, within a reasonable time limit fixed in the invitation, a specimen of the mark.

(e) Paragraph (3)(a)(i) and (b) shall apply *mutatis mutandis*.

(5) [*Hologram Mark, Motion Mark, Color Mark, Position Mark*] Where the application contains a statement to the effect that the mark is a hologram mark, a motion mark, a color mark or a position mark, a Contracting Party may require one or more reproductions of the mark and details concerning the mark, as prescribed by the law of that Contracting Party.

(6) [*Mark Consisting of a Non-Visible Sign*] Where the application contains a statement to the effect that the mark consists of a non-visible sign, a Contracting Party may require one or more representations of the mark, an indication of the type of mark and details concerning the mark, as prescribed by the law of that Contracting Party.

(7) [*Transliteration of the Mark*] For the purposes of Article 3(1)(a)(xiii), where the mark consists of or contains matter in script other than the script used by the Office or numbers expressed in numerals other than numerals used by the Office, a transliteration of such matter in the script and numerals used by the Office may be required.

(8) [*Translation of the Mark*] For the purposes of Article 3(1)(a)(xiv), where the mark consists of or contains a word or words in a language other than the language, or one of the languages, admitted by the Office, a translation of that word or those words into that language or one of those languages may be required.

(9) [*Time Limit for Furnishing Evidence of Actual Use of the Mark*] The time limit referred to in Article 3(3) shall not be shorter than six months counted from the date of allowance of the application by the Office of the Contracting Party where that application was filed. The applicant or holder shall have the right to an extension of that time limit, subject to the conditions provided for by the law of that Contracting Party, by periods of at least six months each, up to a total extension of at least two years and a half.

*Rule 4*  
*Details Concerning Representation*

The time limit referred to in Article 4(3)(d) shall be counted from the date of receipt of the communication referred to in that Article by the Office of the Contracting Party concerned and shall not be less than one month where the address of the person on whose behalf the communication is made is on the territory of that Contracting Party and not less than two months where such an address is outside the territory of that Contracting Party.

*Rule 5*  
*Details Concerning the Filing Date*

(1) [*Procedure in Case of Non-Compliance with Requirements*] If the application does not, at the time of its receipt by the Office, comply with any of the applicable requirements of Article 5(1)(a) or (2)(a), the Office shall promptly invite the applicant to comply with such requirements within a time limit indicated in the invitation, which time limit shall be at least one month from the date of the invitation where the applicant's address is on the territory of the Contracting Party concerned and at least two months where the applicant's address is outside the territory of the Contracting Party concerned. Compliance with the invitation may be subject to the payment of a special fee. Even if the Office fails to send the said invitation, the said requirements remain unaffected.

(2) [*Filing Date in Case of Correction*] If, within the time limit indicated in the invitation, the applicant complies with the invitation referred to in paragraph (1) and pays any required special fee, the filing date shall be the date on which all the required indications and elements referred to in Article 5(1)(a) have been received by the Office and, where applicable, the required fee referred to in Article 5(2)(a) has been paid to the Office. Otherwise, the application shall be treated as if it had not been filed.

*Rule 4*  
*Details Concerning Representation and Address for Service*

(1) [*Address Where a Representative Is Appointed*] Where a representative is appointed, a Contracting Party shall consider the address of that representative to be the address for service.

(2) [*Address Where No Representative Is Appointed*] Where no representative is appointed and an applicant, holder or other interested person has provided as its address an address on the territory of the Contracting Party, that Contracting Party shall consider that address to be the address for service.

(3) [*Time Limit*] The time limit referred to in Article 4(3)(d) shall be counted from the date of receipt of the communication referred to in that Article by the Office of the Contracting Party concerned and shall not be less than one month where the address of the person on whose behalf the communication is made is on the territory of that Contracting Party and not less than two months where such an address is outside the territory of that Contracting Party.

*Rule 5*  
*Details Concerning the Filing Date*

(1) [*Procedure in Case of Non-Compliance with Requirements*] If the application does not, at the time of its receipt by the Office, comply with any of the applicable requirements of Article 5(1)(a) or (2)(a), the Office shall promptly invite the applicant to comply with such requirements within a time limit indicated in the invitation, which time limit shall be at least one month from the date of the invitation where the applicant's address is on the territory of the Contracting Party concerned and at least two months where the applicant's address is outside the territory of the Contracting Party concerned. Compliance with the invitation may be subject to the payment of a special fee. Even if the Office fails to send the said invitation, the said requirements remain unaffected.

(2) [*Filing Date in Case of Correction*] If, within the time limit indicated in the invitation, the applicant complies with the invitation referred to in paragraph (1) and pays any required special fee, the filing date shall be the date on which all the required indications and elements referred to in Article 5(1)(a) have been received by the Office and, where applicable, the required fees referred to in Article 5(2)(a) have been paid to the Office. Otherwise, the application shall be treated as if it had not been filed.

(3) [*Date of Receipt*] Each Contracting Party shall be free to determine the circumstances in which the receipt of a document or the payment of a fee shall be deemed to constitute receipt by or payment to the Office in cases in which the document was actually received by or payment was actually made to

(i) a branch or sub-office of the Office,

(ii) a national Office on behalf of the Office of the Contracting Party, where the Contracting Party is an intergovernmental organization referred to in Article 19(1)(ii),

(iii) an official postal service,

(iv) a delivery service, other than an official postal service, specified by the Contracting Party.

(4) [*Use of Telefacsimile*] Where a Contracting Party allows the filing of an application by telefacsimile and the application is filed by telefacsimile, the date of receipt of the telefacsimile by the Office of that Contracting Party shall constitute the date of receipt of the application, provided that the said Contracting Party may require that the original of such application reach the Office within a time limit which shall be at least one month from the day on which the telefacsimile was received by the said Office.

*Rule 6*  
*Details Concerning the Signature*

(1) [*Legal Entities*] Where a communication is signed on behalf of a legal entity, any Contracting Party may require that the signature, or the seal, of the natural person who signs or whose seal is used be accompanied by an indication in letters of the family or principal name and the given or secondary name or names of that person or, at the option of that person, of the name or names customarily used by the said person.

(2) [*Communication by Telefacsimile*] The period referred to in Article 8(2)(b) shall not be less than one month from the date of the receipt of a transmittal by telefacsimile.

*Rule 6*  
*Details Concerning Communications*

(1) [*Indications Accompanying Signature of Communications on Paper*] Any Contracting Party may require that the signature of the natural person who signs be accompanied by

(i) an indication in letters of the family or principal name and the given or secondary name or names of that person or, at the option of that person, of the name or names customarily used by the said person;

(ii) an indication of the capacity in which that person signed, where such capacity is not obvious from reading the communication.

(3) *[Date]* Any Contracting Party may require that a signature or seal be accompanied by an indication of the date on which the signing or sealing was effected. Where that indication is required but is not supplied, the date on which the signing or sealing is deemed to have been effected shall be the date on which the communication bearing the signature or seal was received by the Office or, if the Contracting Party so allows, a date earlier than the latter date.

(2) *[Date of Signing]* Any Contracting Party may require that a signature be accompanied by an indication of the date on which the signing was effected. Where that indication is required but is not supplied, the date on which the signing is deemed to have been effected shall be the date on which the communication bearing the signature was received by the Office or, if the Contracting Party so allows, a date earlier than the latter date.

(3) *[Signature of Communications on Paper]* Where a communication to the Office of a Contracting Party is on paper and a signature is required, that Contracting Party

(i) shall, subject to item (iii), accept a handwritten signature;

(ii) may permit, instead of a handwritten signature, the use of other forms of signature, such as a printed or stamped signature, or the use of a seal or of a bar-coded label;

(iii) may, where the natural person who signs the communication is a national of the Contracting Party and such person's address is on its territory, or where the legal entity on behalf of which the communication is signed is organized under its law and has either a domicile or a real and effective industrial or commercial establishment on its territory, require that a seal be used instead of a handwritten signature.

(4) *[Signature of Communications on Paper Filed by Electronic Means of Transmittal]* A Contracting Party that provides for communications on paper to be filed by electronic means of transmittal shall consider any such communication signed if a graphic representation of a signature accepted by that Contracting Party under paragraph (3) appears on the communication as received.

(5) *[Original of a Communication on Paper Filed by Electronic Means of Transmittal]* A Contracting Party that provides for communications on paper to be filed by electronic means of transmittal may require that the original of any such communication be filed

(i) with the Office accompanied by a letter identifying that earlier transmission and

(ii) within a time limit which shall be at least one month from the date on which the Office received the communication by electronic means of transmittal.

(6) [*Authentication of Communications in Electronic Form*] A Contracting Party that permits the filing of communications in electronic form may require that any such communication be authenticated through a system of electronic authentication as prescribed by that Contracting Party.

(7) [*Date of Receipt*] Each Contracting Party shall be free to determine the circumstances in which the receipt of a document or the payment of a fee shall be deemed to constitute receipt by or payment to the Office in cases in which the document was actually received by or payment was actually made to

(i) a branch or sub-office of the Office,

(ii) a national Office on behalf of the Office of the Contracting Party, where the Contracting Party is an intergovernmental organization referred to in Article 26(1)(ii),

(iii) an official postal service,

(iv) delivery service, or an agency, specified by the Contracting Party,

(v) an address other than the nominated addresses of the Office.

(8) [*Electronic Filing*] Subject to paragraph (7), where a Contracting Party provides for the filing of a communication in electronic form or by electronic means of transmittal and the communication is so filed, the date on which the Office of that Contracting Party receives the communication in such form or by such means shall constitute the date of receipt of the communication.

*Rule 7*

*Manner of Identification of an Application Without Its Application Number*

(1) [*Manner of Identification*] Where it is required that an application be identified by its application number but where such a number has not yet been issued or is not known to the applicant or his representative, that application shall be considered identified if the following is supplied:

*Rule 7*

*Manner of Identification of an Application Without Its Application Number*

(1) [*Manner of Identification*] Where it is required that an application be identified by its application number but where such a number has not yet been issued or is not known to the applicant or its representative, that application shall be considered identified if the following is supplied:

(i) the provisional application number, if any, given by the Office, or

(ii) a copy of the application, or

(iii) a reproduction of the mark, accompanied by an indication of the date on which, to the best knowledge of the applicant or the representative, the application was received by the Office and an identification number given to the application by the applicant or the representative.

(2) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraph (1) be complied with in order for an application to be identified where its application number has not yet been issued or is not known to the applicant or his representative.

*Rule 8*

*Details Concerning Duration and Renewal*

For the purposes of Article 13(1)(c), the period during which the request for renewal may be presented and the renewal fee may be paid shall start at least six months before the date on which the renewal is due and shall end at the earliest six months after that date. If the request for renewal is presented and/or the renewal fees are paid after the date on which the renewal is due, any Contracting Party may subject the renewal to the payment of a surcharge.

(i) the provisional application number, if any, given by the Office, or

(ii) a copy of the application, or

(iii) a representation of the mark, accompanied by an indication of the date on which, to the best knowledge of the applicant or the representative, the application was received by the Office and an identification number given to the application by the applicant or the representative.

(2) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraph (1) be complied with in order for an application to be identified where its application number has not yet been issued or is not known to the applicant or its representative.

*Rule 8*

*Details Concerning Duration and Renewal*

For the purposes of Article 13(1)(c), the period during which the request for renewal may be presented and the renewal fee may be paid shall start at least six months before the date on which the renewal is due and shall end at the earliest six months after that date. If the request for renewal is presented and/or the renewal fees are paid after the date on which the renewal is due, any Contracting Party may subject the acceptance of the request for renewal to the payment of a surcharge.

*Rule 9*

*Relief Measures in Case of Failure to Comply with Time Limits*

(1) [*Requirements Concerning Extension of Time Limits Under Article 14(2)(i)*] A Contracting Party that provides for the extension of a time limit under Article 14(2)(i) shall extend the time limit for a reasonable period of time from the date of filing the request for extension and may require that the request

(i) contain an identification of the requesting party, the relevant application or registration number and the time limit concerned, and

(ii) be filed within a time limit which shall not be less than two months from the date of expiry of the time limit concerned.

(2) [*Requirements Concerning Continued Processing Under Article 14(2)(ii)*] A Contracting Party may require that the request for continued processing under Article 14(2)(ii)

(i) contain an identification of the requesting party, the relevant application or registration number and the time limit concerned, and

(ii) be filed within a time limit which shall not be less than two months from the date of expiry of the time limit concerned. The omitted act shall be completed within the same period or, where the Contracting Party so provides, together with the request.

(3) [*Requirements Concerning Reinstatement of Rights Under Article 14(2)(iii)*]

(a) A Contracting Party may require that the request for reinstatement of rights under Article 14(2)(iii)

(i) contain an identification of the requesting party, the relevant application or registration number and the time limit concerned, and

(ii) set out the facts and evidence in support of the reasons for the failure to comply with the time limit concerned.

(b) The request for reinstatement of rights shall be filed with the Office within a reasonable time limit, the duration of which shall be determined by the Contracting Party from the date of the removal of the cause of failure to comply with the time limit concerned. The omitted act shall be completed within the same period or, where the Contracting Party so provides, together with the request.

(c) A Contracting Party may provide for a maximum time limit for complying with the requirements under subparagraphs (a) and (b) of not less than six months from the date of expiry of the time limit concerned.

(4) [*Exceptions Under Article 14(3)*] The exceptions referred to in Article 14(3) are the cases of failure to comply with a time limit

(i) for which a relief measure has already been granted under Article 14(2),

(ii) for filing a request for a relief measure under Article 14,

(iii) for payment of a renewal fee,

(iv) for an action before a board of appeal or other review body constituted in the framework of the Office,

(v) for an action in *inter partes* proceedings,

(vi) for filing the declaration referred to in Article 3(1)(a)(vii) or the declaration referred to in Article 3(1)(a)(viii),

(vii) for filing a declaration which, under the law of the Contracting Party, may establish a new filing date for a pending application, and

(viii) for the correction or addition of a priority claim.

*Rule 10*  
*Requirements Concerning the Request for Recordal of*  
*a License or for*  
*Amendment or Cancellation of the Recordal of a*  
*License*

(1) [*Content of Request*]

(a) A Contracting Party may require that the request for recordal of a license under Article 17(1) contain some or all of the following indications or elements:

(i) the name and address of the holder;

(ii) where the holder has a representative, the name and address of that representative;

(iii) where the holder has an address for service, such address;

(iv) the name and address of the licensee;

(v) where the licensee has a representative, the name and address of that representative;

(vi) where the licensee has an address for service, such address;



(vii) the name of a State of which the licensee is a national if he/she is a national of any State, the name of a State in which the licensee has his/her domicile, if any, and the name of a State in which the licensee has a real and effective industrial or commercial establishment, if any;

(viii) where the holder or the licensee is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;

(ix) the registration number of the mark which is the subject of the license;

(x) the names of the goods and/or services for which the license is granted, grouped according to the classes of the Nice Classification, each group preceded by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;

(xi) whether the license is an exclusive license, a non-exclusive license or a sole license;

(xii) where applicable, that the license concerns only a part of the territory covered by the registration, together with an explicit indication of that part of the territory;

(xiii) the duration of the license.

(b) A Contracting Party may require that the request for amendment or cancellation of the recordal of a license under Article 18(1) contain some or all of the following indications or elements:

(i) the indications specified in items (i) to (ix) of subparagraph (a);

(ii) where the amendment or cancellation concerns any of the indications or elements specified under subparagraph (a), the nature and scope of the amendment or cancellation to be recorded.

(2) [*Supporting Documents for Recordal of a License*]

(a) A Contracting Party may require that the request for recordal of a license be accompanied, at the option of the requesting party, by one of the following:

(i) an extract of the license contract indicating the parties and the rights being licensed, certified by a notary public or any other competent public authority as being a true extract of the contract; or

(ii) an uncertified statement of license, the content of which corresponds to the statement of license Form provided for in the Regulations, and signed by both the holder and the licensee.

(b) Any Contracting Party may require that any co-holder who is not a party to the license contract give its express consent to the license in a document signed by it.

(3) [*Supporting Documents for Amendment of Recordal of a License*]

(a) A Contracting Party may require that the request for amendment of the recordal of a license be accompanied, at the option of the requesting party, by one of the following:

(i) documents substantiating the requested amendment of the recordal of the license; or

(ii) an uncertified statement of amendment of license, the content of which corresponds to the statement of amendment of license Form provided for in these Regulations, and signed by both the holder and the licensee.

(b) Any Contracting Party may require that any co-holder who is not a party to the license contract give its express consent to the amendment of the license in a document signed by it.

(4) [*Supporting Documents for Cancellation of Recordal of a License*] A Contracting Party may require that the request for cancellation of the recordal of a license be accompanied, at the option of the requesting party, by one of the following:

(i) documents substantiating the requested cancellation of the recordal of the license; or

(ii) an uncertified statement of cancellation of license, the content of which corresponds to the statement of cancellation of license Form provided for in these Regulations, and signed by both the holder and the licensee.

## MODEL INTERNATIONAL FORMS

Editor's note: Model International Forms No. 1 to 8 are identical in both the Trademark Law Treaty and the Singapore Treaty on the Law of Trademarks. Model International Forms No. 9 to 12 were introduced in the Singapore Treaty on the Law of Trademarks to illustrate the requirements provided under Articles 17 to 20 of the Treaty and Rule 10 of the Regulations. All Model International Forms are reproduced on pages 49 to 117 of these Records.

### Signatories to the Singapore Treaty on the Law of Trademarks (54)

Australia	March 26, 2007	Latvia	March 28, 2006
Austria	March 28, 2006	Lebanon	December 5, 2006
Belgium	March 28, 2006	Lithuania	March 28, 2006
Bosnia and Herzegovina	March 28, 2006	Luxembourg	March 29, 2006
Burkina Faso	March 28, 2006	Madagascar	March 28, 2006
Cameroon	February 27, 2007	Mali	July 26, 2006
Central African Republic	March 28, 2006	Mauritania	January 31, 2007
China	January 29, 2007	Mexico	March 28, 2006
Congo	March 28, 2006	New Zealand	September 26, 2006
Costa Rica	March 28, 2006	Papua New Guinea	March 28, 2006
Croatia	March 28, 2006	Portugal	March 28, 2006
Czech Republic	March 28, 2006	Republic of Moldova	March 28, 2006
Democratic People's Republic of Korea	March 28, 2006	Romania	March 28, 2006
Democratic Republic of the Congo	March 28, 2006	Russian Federation	March 26, 2007
Denmark	March 28, 2006	Senegal	March 28, 2006
Dominican Republic	March 28, 2006	Singapore	May 18, 2006
Estonia	March 28, 2006	Spain	March 28, 2006
Finland	October 3, 2006	Switzerland	March 28, 2006
France	March 28, 2006	Tajikistan	March 28, 2006
Ghana	March 28, 2006	The former Yugoslav Republic of Macedonia	March 28, 2006
Guinea	March 28, 2006	Togo	March 28, 2006
Haiti	March 28, 2006	Turkey	March 28, 2006
Hungary	September 26, 2006	Ukraine	March 28, 2006
Iceland	January 31, 2007	United Kingdom	March 28, 2006
Italy	March 28, 2006	United States of America	March 28, 2006
Kenya	March 28, 2006	Uruguay	March 28, 2006
Kyrgyzstan	March 28, 2006	Uzbekistan	March 28, 2006



## **Final Act of the Diplomatic Conference**

In accordance with the decisions by the Assemblies of the Member States of the World Intellectual Property Organization (WIPO) taken at their fortieth series of meetings (September 2004) and at their forty-first series of meetings (September 2005) and following preparations carried out by WIPO and the Government of Singapore, the Diplomatic Conference for the Adoption of a Revised Trademark Law Treaty was convened by WIPO and held in Singapore, from March 13 to 28, 2006.

The Diplomatic Conference adopted, on March 27, 2006, the Singapore Treaty on the Law of Trademarks, which was opened for signature on March 28, 2006.

The Diplomatic Conference also adopted, on March 27, 2006, a Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder.

IN WITNESS THEREOF, the undersigned, being duly authorized thereto, have signed the present Final Act in Singapore, on March 28, 2006:

Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Barbados, Belarus, Belgium, Benin, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Cameroon, Canada, Central African Republic, Chad, Chile, China, Comoros, Congo, Costa Rica, Croatia, Cuba, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Ethiopia, Finland, France, Germany, Ghana, Greece, Grenada, Guinea, Guinea-Bissau, Haiti, Honduras, Hungary, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kenya, Kyrgyzstan, Latvia, Lesotho, Lithuania, Madagascar, Mali, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Serbia and Montenegro, Seychelles, Singapore, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, The former Yugoslav Republic of Macedonia, Togo, Tunisia, Turkey, Ukraine, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Uzbekistan, Viet Nam, Yemen, Zambia, Zimbabwe, African Intellectual Property Organization, African Regional Intellectual Property Organization, European Community (120).



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TLT/R/DC/2 March 14, 2006	RULES OF PROCEDURE as adopted on March 14, 2006, by the Diplomatic Conference
TLT/R/DC/3 October 5, 2005	BASIC PROPOSAL FOR A REVISED TRADEMARK LAW TREATY submitted by the Director General of WIPO
TLT/R/DC/3 Corr. January 19, 2006	CORRIGENDUM TO THE RUSSIAN VERSION OF DOCUMENT TLT/R/DC/3 prepared by the Secretariat
TLT/R/DC/4 October 5, 2005	BASIC PROPOSAL FOR THE REGULATIONS UNDER THE REVISED TRADEMARK LAW TREATY submitted by the Director General of WIPO
TLT/R/DC/4 Corr. January 19, 2006	CORRIGENDUM TO THE RUSSIAN VERSION OF DOCUMENT TLT/R/DC/4 prepared by the Secretariat
TLT/R/DC/4 Corr. March 3, 2006	CORRIGENDUM TO THE FRENCH VERSION OF DOCUMENT TLT/R/DC/4 prepared by the Secretariat
TLT/R/DC/5 October 5, 2005	NOTES ON THE BASIC PROPOSAL FOR A REVISED TRADEMARK LAW TREATY AND REGULATIONS THEREUNDER prepared by the Secretariat
TLT/R/DC/5 Corr. January 19, 2006	CORRIGENDUM TO THE RUSSIAN VERSION OF DOCUMENT TLT/R/DC/5 prepared by the Secretariat
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TLT/R/DC/10 March 16, 2006	ARTICLE 4 Proposal by the Delegation of China
TLT/R/DC/11 March 16, 2006	ARTICLE 3 Proposal by the Delegation of Singapore
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TLT/R/DC/13 March 16, 2006	RULE 9 Proposal by the Delegation of Japan
TLT/R/DC/14 March 17, 2006	FIRST REPORT OF THE CREDENTIALS COMMITTEE prepared by the Secretariat
TLT/R/DC/15 March 16, 2006	ARTICLES 1, 3(5), 4(3)(d), 5(2)(a), 8(1), 22(1)(a), 22(4), 25(2)(a), 24(3)(a) AND 24(4)(c) Proposal by the Delegation of South Africa
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- TLT/R/DC/23  
March 22, 2006  
RESOLUTIONS PROPOSED FOR ADOPTION BY THE DIPLOMATIC CONFERENCE  
Proposal by the Delegation of Honduras on Behalf of the Countries of the Group of Latin America and the Caribbean (GRULAC)
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DRAFT SINGAPORE TREATY ON THE LAW OF TRADEMARKS  
submitted to Main Committees I and II by the Drafting Committee
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March 24, 2006  
CORRIGENDUM TO DOCUMENT TLT/R/DC/24  
prepared by the Secretariat
- TLT/R/DC/25  
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DRAFT REGULATIONS UNDER THE SINGAPORE TREATY ON THE LAW OF TRADEMARKS  
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Proposal by the Regional Group Coordinators on Behalf of the Regional Groups
- TLT/R/DC/27  
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SECOND REPORT OF THE CREDENTIALS COMMITTEE  
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proposed to the Conference, meeting in Plenary, by Main Committees I and II
- TLT/R/DC/29  
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DRAFT FINAL ACT  
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**THE LAW OF TRADEMARKS AND THE REGULATIONS  
THEREUNDER**

adopted by the Diplomatic Conference on March 27, 2006

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TLT/R/DC/1

March 14, 2006 (Original: English)

## AGENDA

*as adopted on March 14, 2006, by the Diplomatic Conference*

1. Opening of the Conference by the Director General of WIPO
2. Consideration and adoption of the Rules of Procedure
3. Election of the President of the Conference
4. Consideration and adoption of the agenda
5. Election of the Vice-Presidents of the Conference
6. Election of the members of the Credentials Committee
7. Election of the members of the Drafting Committee
8. Election of the Officers of the Credentials Committee, the Main Committees and Drafting Committee
9. Consideration of the first report of the Credentials Committee
10. Opening declarations by Delegations and by representatives of Observer Organizations
11. Consideration of the texts proposed by the Main Committees
12. Consideration of the second report of the Credentials Committee
13. Adoption of the Revised Trademark Law Treaty and the Regulations
14. Adoption of any recommendation, resolution, agreed statement or final act
15. Closing declarations by Delegations and by representatives of Observer Organizations
16. Closing of the Conference by the President\*

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\* Immediately after the closing of the Conference, the Final Act, if any, and the Revised Trademark Law Treaty will be open for signature.

TLT/R/DC/2

March 14, 2006 (Original: English)

## RULES OF PROCEDURE

*as adopted on March 14, 2006, by the Diplomatic Conference*Contents

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## CHAPTER I: OBJECTIVE, COMPETENCE, COMPOSITION AND SECRETARIAT OF THE CONFERENCE

### Rule 1: Objective and Competence of the Conference

(1) The objective of the Diplomatic Conference for the Adoption of a Revised Trademark Law Treaty (hereinafter referred to as “the Conference”) is to negotiate and adopt such a Treaty and Regulations under that Treaty (hereinafter referred to, respectively, as “the Treaty” and as “the Regulations”).

(2) The Conference, meeting in Plenary, shall be competent to:

(i) adopt the Rules of Procedure of the Conference (hereinafter referred to as “these Rules”) and to make any amendments thereto;

(ii) adopt the agenda of the Conference;

(iii) decide on credentials, full powers, letters or other documents presented in accordance with Rules 6, 7 and 8 of these Rules;

(iv) adopt the Treaty and the Regulations;

(v) adopt any recommendation or resolution whose subject matter is germane to the Treaty and the Regulations;

(vi) adopt any agreed statements to be included in the Records of the Conference;

(vii) adopt any final act of the Conference;

(viii) deal with all other matters referred to it by these Rules or appearing on its agenda.

### Rule 2: Composition of the Conference

(1) The Conference shall consist of:

(i) delegations of the States members of the World Intellectual Property Organization (hereinafter referred to as “the Ordinary Member Delegations”);

(ii) the delegations of the African Intellectual Property Organization, the African Regional Intellectual Property Organization and the European Community (hereinafter referred to as “the Special Member Delegations”);

(iii) the delegations of States members of the United Nations other than the States members of the World Intellectual Property Organization invited to the Conference as observers (hereinafter referred to as "the Observer Delegations");

(iv) representatives of intergovernmental and non-governmental organizations invited to the Conference as observers (hereinafter referred to as "the Observer Organizations").

(2) References in these Rules of Procedure to "Member Delegations" shall be considered as references to the Ordinary Member Delegations and the Special Member Delegations.

(3) References in these Rules of Procedure to "Delegations" shall be considered as references to the three kinds of Delegations (Ordinary Member, Special Member and Observer) but not to Observer Organizations.

Rule 3: Secretariat of the Conference

(1) The Conference shall have a Secretariat provided by the International Bureau of the World Intellectual Property Organization (hereinafter referred to as "the International Bureau" and "WIPO," respectively).

(2) The Director General of WIPO and any official of the International Bureau designated by the Director General of WIPO may participate in the discussions of the Conference, meeting in Plenary, as well as in any committee or working group thereof and may, at any time, make oral or written statements, observations or suggestions to the Conference, meeting in Plenary, and any committee or working group thereof concerning any question under consideration.

(3) The Director General of WIPO shall, from among the staff of the International Bureau, designate the Secretary of the Conference and a Secretary for each committee and for each working group.

(4) The Secretary of the Conference shall direct the staff required by the Conference.

(5) The Secretariat shall provide for the receiving, translation, reproduction and distribution of the required documents, for the interpretation of oral interventions and for the performance of all other secretarial work required for the Conference.

(6) The Director General of WIPO shall be responsible for the custody and preservation in the archives of WIPO of all documents of the Conference. The International Bureau shall distribute the final documents of the Conference after the closing of the Conference.

## CHAPTER II: REPRESENTATION

Rule 4: Delegations

- (1) Each Delegation shall consist of one or more delegates and may include advisors.
- (2) Each Delegation shall have a Head of Delegation and may have a Deputy Head of Delegation.

Rule 5: Observer Organizations

An Observer Organization may be represented by one or more representatives.

Rule 6: Credentials and Full Powers

- (1) Each Delegation shall present credentials. If a final act of the Conference (see Rule 1(2)(vii)) is adopted, it shall be open for signature by any Delegation whose credentials have been found in order under Rule 9(2).
- (2) Full powers shall be required for signing the Treaty.

Rule 7: Letters of Appointment

The representatives of Observer Organizations shall present a letter or other document appointing them.

Rule 8: Presentation of Credentials, etc.

The credentials and full powers referred to in Rule 6 and the letters or other documents referred to in Rule 7 shall be presented to the Secretary of the Conference, preferably not later than 24 hours after the opening of the Conference.

Rule 9: Examination of Credentials, etc.

- (1) The Credentials Committee referred to in Rule 11 shall examine the credentials, full powers, letters or other documents referred to in Rules 6 and 7, respectively, and shall report to the Conference, meeting in Plenary.
- (2) The decision on whether a credential, full powers, letter or other document is in order shall be made by the Conference, meeting in Plenary. Such decision shall be made as soon as possible and in any case before the adoption of the Treaty.

**Rule 10: Provisional Participation**

Pending a decision upon their credentials, letters or other documents of appointment, Delegations and Observer Organizations shall be entitled to participate provisionally in the deliberations of the Conference as provided in these Rules.

**CHAPTER III: COMMITTEES AND WORKING GROUPS****Rule 11: Credentials Committee**

- (1) The Conference shall have a Credentials Committee.
- (2) The Credentials Committee shall consist of seven Ordinary Member Delegations elected by the Conference, meeting in Plenary.

**Rule 12: Main Committees and Their Working Groups**

- (1) The Conference shall have two Main Committees. Main Committee I shall be responsible for proposing for adoption by the Conference, meeting in Plenary, the substantive provisions of the Treaty, the Regulations and any recommendation, resolution or agreed statement referred to in Rule 1(2)(v) and (vi). Main Committee II shall be responsible for proposing for adoption by the Conference, meeting in Plenary, the other provisions of the Treaty.
- (2) Each Main Committee shall consist of all the Member Delegations.
- (3) Each Main Committee may create working groups. In creating a working group, the Main Committee creating it shall specify the tasks of the Working Group, decide on the number of the members of the Working Group and elect such members from among the Member Delegations.

**Rule 13: Drafting Committee**

- (1) The Conference shall have a Drafting Committee.
- (2) The Drafting Committee shall consist of 11 elected members and two *ex officio* members. The elected members shall be elected by the Conference, meeting in Plenary, from among the Member Delegations. The Presidents of the two Main Committees shall be the *ex officio* members.

(3) The Drafting Committee shall prepare drafts and give advice on drafting as requested by either Main Committee. The Drafting Committee shall not alter the substance of the texts submitted to it. It shall coordinate and review the drafting of all texts submitted to it by the Main Committees, and it shall submit the texts so reviewed for final approval to the competent Main Committee.

Rule 14: Steering Committee

(1) The Conference shall have a Steering Committee.

(2) The Steering Committee shall consist of the President and Vice-Presidents of the Conference, the President of the Credentials Committee, the Presidents of the Main Committees and the President of the Drafting Committee. The meetings of the Steering Committee shall be presided over by the President of the Conference.

(3) The Steering Committee shall meet from time to time to review the progress of the Conference and to make decisions for furthering such progress, including, in particular, decisions on the coordinating of the meetings of the Plenary, the committees and the working groups.

(4) The Steering Committee shall propose the text of any final act of the Conference (see Rule 1(2)(vii)), for adoption by the Conference, meeting in Plenary.

#### CHAPTER IV: OFFICERS

Rule 15: Officers and Their Election; Precedence Among Vice-Presidents

(1) The Conference shall have a President and 10 Vice-Presidents.

(2) The Credentials Committee, each of the two Main Committees and the Drafting Committee shall have a President and two Vice-Presidents.

(3) Any Working Group shall have a President and two Vice-Presidents.

(4) The Conference, meeting in Plenary, and presided over by the Director General of WIPO, shall elect its President and then, presided over by its President, shall elect its Vice-Presidents and the officers of the Credentials Committee, the Main Committees and the Drafting Committee.

(5) The officers of a Working Group shall be elected by the Main Committee that establishes that Working Group.

(6) Precedence among the Vice-Presidents of a given body (the Conference, the Credentials Committee, the two Main Committees, any Working Group, the Drafting Committee) shall be determined by the place occupied by the name of the State of each of

them in the list of Member Delegations established in the alphabetical order of the names of the States in French, beginning with the Member Delegation whose name shall have been drawn by lot by the President of the Conference. The Vice-President of a given body who has precedence over all the other Vice-Presidents of that body shall be called "the ranking" Vice-President of that body.

Rule 16: Acting President

(1) If the President is absent from a meeting, the meeting shall be presided over, as Acting President, by the ranking Vice-President of that body.

(2) If all the officers of a body are absent from any meeting of the body concerned, that body shall elect an Acting President.

Rule 17: Replacement of the President

If a President becomes unable to perform his or her functions for the remainder of the duration of the Conference, a new President shall be elected.

Rule 18: Vote by the Presiding Officer

(1) No President, whether elected as such or acting (hereinafter referred to as "the Presiding Officer"), shall take part in voting. Another member of his or her Delegation may vote for that Delegation.

(2) Where the Presiding Officer is the only member of his or her Delegation, he or she may vote, but only in the last place.

## CHAPTER V: CONDUCT OF BUSINESS

Rule 19: Quorum

(1) A quorum shall be required in the Conference, meeting in Plenary; it shall, subject to paragraph (3), be constituted by one-half of the Member Delegations represented at the Conference.

(2) A quorum shall be required for the meetings of each Committee (the Credentials Committee, the two Main Committees, the Drafting Committee and the Steering Committee) and any working group; it shall be constituted by one-half of the members of the Committee or working group.

(3) The quorum at the time of the adoption of the Treaty and the Regulations by the Conference, meeting in Plenary, shall be constituted by one half of the Ordinary Member Delegations whose credentials were found in order by the Conference meeting in Plenary.

Rule 20: General Powers of the Presiding Officer

(1) In addition to exercising the powers conferred upon Presiding Officers elsewhere by these Rules, the Presiding Officer shall declare the opening and closing of the meetings, direct the discussions, accord the right to speak, put questions to the vote, and announce decisions. The Presiding Officer shall rule on points of order and, subject to these Rules, shall have complete control of the proceedings at any meeting and over the maintenance of order thereat.

(2) The Presiding Officer may propose to the body over which he or she presides the limitation of time to be allowed to each speaker, the limitation of the number of times each Delegation may speak on any question, the closure of the list of speakers or the closure of the debate. The Presiding Officer may also propose the suspension or the adjournment of the meeting, or the adjournment of the debate on the question under discussion. Such proposals of the Presiding Officer shall be considered as adopted unless immediately rejected.

Rule 21: Speeches

(1) No person may speak without having previously obtained the permission of the Presiding Officer. Subject to Rules 22 and 23, the Presiding Officer shall call upon persons in the order in which they ask for the floor.

(2) The Presiding Officer may call a speaker to order if the remarks of the speaker are not relevant to the subject under discussion.

Rule 22: Precedence in Receiving the Floor

(1) Member Delegations asking for the floor are generally given precedence over Observer Delegations asking for the floor, and Member Delegations and Observer Delegations are generally given precedence over Observer Organizations.

(2) The President of a committee or working group may be given precedence during discussions relating to the work of the committee or working group concerned.

(3) The Director General of WIPO or his representative may be given precedence for making statements, observations or suggestions.



**Rule 23: Points of Order**

(1) During the discussion of any matter, any Member Delegation may rise to a point of order, and the point of order shall be immediately decided by the Presiding Officer in accordance with these Rules. Any Member Delegation may appeal against the ruling of the Presiding Officer. The appeal shall be immediately put to the vote, and the Presiding Officer's ruling shall stand unless the appeal is approved.

(2) The Member Delegation that has risen to a point of order under paragraph (1) may not speak on the substance of the matter under discussion.

**Rule 24: Limit on Speeches**

In any meeting, the Presiding Officer may decide to limit the time allowed to each speaker and the number of times each Delegation and Observer Organization may speak on any question. When the debate is limited and a Delegation or Observer Organization has used up its allotted time, the Presiding Officer shall call it to order without delay.

**Rule 25: Closing of List of Speakers**

(1) During the discussion of any given question, the Presiding Officer may announce the list of participants who have asked for the floor and decide to close the list as to that question. The Presiding Officer may nevertheless accord the right of reply to any speaker if a speech, delivered after the list of speakers has been closed, makes it desirable.

(2) Any decision made by the Presiding Officer under paragraph (1) may be the subject of an appeal under Rule 23.

**Rule 26: Adjournment or Closure of Debate**

Any Member Delegation may at any time move the adjournment or closure of the debate on the question under discussion, whether or not any other participant has asked for the floor. In addition to the proposer of the motion to adjourn or close the debate, permission to speak on that motion shall be given only to one Member Delegation seconding and two Member Delegations opposing it, after which the motion shall immediately be put to the vote. The Presiding Officer may limit the time allowed to speakers under this Rule.

**Rule 27: Suspension or Adjournment of the Meeting**

During the discussion of any matter, any Member Delegation may move the suspension or the adjournment of the meeting. Such motions shall not be debated, but shall immediately be put to the vote.

**Rule 28: Order of Procedural Motions; Content of Interventions on Such Motions**

(1) Subject to Rule 23, the following motions shall have precedence in the following order over all other proposals or motions before the meeting:

- (i) to suspend the meeting;
- (ii) to adjourn the meeting;
- (iii) to adjourn the debate on the question under discussion;
- (iv) to close the debate on the question under discussion.

(2) Any Member Delegation that has been given the floor on a procedural motion may speak on that motion only, and may not speak on the substance of the matter under discussion.

**Rule 29: Basic Proposal; Proposals for Amendment**

(1) Documents TLT/R/DC/3 and 4 shall constitute the basis of the discussions in the Conference, and the text of the draft Treaty and of the draft Regulations contained in these documents shall constitute the "basic proposal".

(2) Any Member Delegation may propose amendments to the basic proposal.

(3) Proposals for amendment shall, as a rule, be submitted in writing and handed to the Secretary of the body concerned. The Secretariat shall distribute copies to the Delegations and the Observer Organizations. As a general rule, a proposal for amendment cannot be taken into consideration and discussed or put to the vote at a meeting unless copies of it have been distributed not later than three hours before it is taken into consideration. The Presiding Officer may, however, permit the taking into consideration and discussion of a proposal for amendment even though copies of it have not been distributed or have been distributed less than three hours before it is taken into consideration.

**Rule 30: Decisions on the Competence of the Conference**

(1) If a Member Delegation moves that a duly seconded proposal should not be taken into consideration by the Conference because it is outside the latter's competence, that motion shall be decided upon by the Conference, meeting in Plenary, before the proposal is taken into consideration.

(2) If the motion referred to in paragraph (1), above, is made in a body other than the Conference, meeting in Plenary, it shall be referred to the Conference, meeting in Plenary, for a ruling.

**Rule 31: Withdrawal of Procedural Motions and Proposals for Amendment**

Any procedural motion and any proposal for amendment may be withdrawn by the Member Delegation that has made it, at any time before voting on it has commenced, provided that no amendment to it has been proposed by another Member Delegation. Any motion or proposal thus withdrawn may be reintroduced by any other Member Delegation.

**Rule 32: Reconsideration of Matters Decided**

When any matter has been decided by a body, it may not be reconsidered by that body unless so decided by the majority applicable under Rule 34(2)(ii). In addition to the proposer of the motion to reconsider, permission to speak on that motion shall be given only to one Member Delegation seconding and two Member Delegations opposing the motion, after which the motion shall immediately be put to the vote.

## CHAPTER VI: VOTING

**Rule 33: Right to Vote**

Each Ordinary Member Delegation shall have the right to vote. An Ordinary Member Delegation shall have one vote, may represent itself only and may vote in its name only.

**Rule 34: Required Majorities**

- (1) All decisions of all bodies shall be made as far as possible by consensus.
- (2) If it is not possible to attain consensus, the following decisions shall require a majority of two-thirds of the Ordinary Member Delegations present and voting:
  - (i) adoption by the Conference, meeting in Plenary, of these Rules, and, once adopted, any amendment to them,
  - (ii) decision by any of the bodies to reconsider, under Rule 32, a matter decided,
  - (iii) adoption by the Conference, meeting in Plenary, of the Treaty and the Regulations,

whereas all other decisions of all bodies shall require a simple majority of the Ordinary Member Delegations present and voting.

- (3) "Voting" means casting an affirmative or negative vote; express abstention or non-voting shall not be counted.

**Rule 35: Requirement of Seconding; Method of Voting**

(1) Any proposal for amendment made by a Member Delegation shall be put to a vote only if seconded by at least one other Member Delegation.

(2) Voting on any question shall be by show of hands unless an Ordinary Member Delegation, seconded by at least one other Ordinary Member Delegation, requests a roll-call, in which case it shall be by roll-call. The roll shall be called in the alphabetical order of the names in French of the States, beginning with the Ordinary Member Delegation whose name shall have been drawn by lot by the Presiding Officer.

**Rule 36: Conduct During Voting**

(1) After the Presiding Officer has announced the beginning of voting, the voting shall not be interrupted except on a point of order concerning the actual conduct of the voting.

(2) The Presiding Officer may permit a Member Delegation to explain its vote or its abstention, either before or after the voting.

**Rule 37: Division of Proposals**

Any Member Delegation may move that parts of the Basic Proposal or of any proposal for amendment be voted upon separately. If the request for division is objected to, the motion for division shall be put to a vote. In addition to the proposer of the motion for division, permission to speak on that motion shall be given only to one Member Delegation seconding and two Member Delegations opposing it. If the motion for division is carried, all parts of the Basic Proposal or of the proposal for amendment that have been separately approved shall again be put to the vote, together, as a whole. If all operative parts of the Basic Proposal or of the proposal for amendment have been rejected, the Basic Proposal or the proposal for amendment shall be considered rejected as a whole.

**Rule 38: Voting on Proposals for Amendment**

(1) Any proposal for amendment shall be voted upon before the text to which it relates is voted upon.

(2) Proposals for amendment relating to the same text shall be put to the vote in the order of their substantive remoteness from the said text, the most remote being put to the vote first and the least remote being put to the vote last. If, however, the adoption of any proposal for amendment necessarily implies the rejection of any other proposal for amendment or of the original text, such other proposal or text shall not be put to the vote.

(3) If one or more proposals for amendment relating to the same text are adopted, the text as amended shall be put to the vote.

(4) Any proposal the purpose of which is to add to or delete from a text shall be considered a proposal for amendment.

Rule 39: Voting on Proposals for Amendment on the Same Question

Subject to Rule 38, where two or more proposals relate to the same question, they shall be put to the vote in the order in which they have been submitted, unless the body concerned decides on a different order.

Rule 40: Equally Divided Votes

(1) Subject to paragraph (2), if a vote is equally divided on a matter that calls only for a simple majority, the proposal shall be considered rejected.

(2) If a vote is equally divided on a proposal for electing a given person to a given position as officer and the nomination is maintained, the vote shall be repeated, until either that nomination is adopted or rejected or another person is elected for the position in question.

## CHAPTER VII: LANGUAGES AND MINUTES

Rule 41: Languages of Oral Interventions

(1) Subject to paragraph (2), oral interventions made in the meetings of any of the bodies shall be in Arabic, Chinese, English, French, Portuguese, Russian or Spanish, and interpretation shall be provided by the Secretariat into English, Arabic, Chinese, French, Russian or Spanish.

(2) Any of the Committees and any working group may, if none of its members objects, decide to dispense with interpretation or to limit interpretation to some only of the languages that are referred to in paragraph (1).

Rule 42: Summary Minutes

(1) Provisional summary minutes of the meetings of the Conference, meeting in Plenary, and of the Main Committees shall be drawn up by the International Bureau and shall be made available as soon as possible after the closing of the Conference to all speakers, who shall, within two months after the minutes have been made available, inform the International Bureau of any suggestions for changes in the minutes of their own interventions.

(2) The final summary minutes shall be published in due course by the International Bureau.

**Rule 43: Languages of Documents and Summary Minutes**

(1) Any written proposal shall be presented to the Secretariat in English, Arabic, Chinese, French, Russian or Spanish. Such proposal shall be distributed by the Secretariat in Arabic, Chinese, English, French, Russian and Spanish.

(2) Reports of the Committees and any working group shall be distributed in English, Arabic, Chinese, French, Russian and Spanish. Information documents of the Secretariat shall be distributed in English and French.

(3) (a) Provisional summary minutes shall be drawn up in the language used by the speaker if the speaker has used English, French or Spanish; if the speaker has used another language, the intervention shall be rendered in English or French at the choice of the International Bureau.

(b) The final summary minutes shall be made available in English and French.

**CHAPTER VIII: OPEN AND CLOSED MEETINGS****Rule 44: Meetings of the Conference and of the Main Committees**

The meetings of the Conference, meeting in Plenary, and of the Main Committees shall be open to the public unless the Conference, meeting in Plenary, or the interested Main Committee, decides otherwise.

**Rule 45: Meetings of Other Committees and of Working Groups**

The meetings of the Credentials Committee, the Drafting Committee, the Steering Committee and any working group shall be open only to the members of the committee or the working group concerned and to the Secretariat.

**CHAPTER IX: OBSERVER DELEGATIONS AND OBSERVER ORGANIZATIONS****Rule 46: Status of Observers**

(1) Observer Delegations may attend, and make oral statements in, the Plenary meetings of the Conference and the meetings of the Main Committees.

(2) Observer Organizations may attend the Plenary meetings of the Conference and the meetings of the Main Committees. Upon the invitation of the Presiding Officer, they may make oral statements in those meetings on questions within the scope of their activities.

(3) Written statements submitted by Observer Delegations or by Observer Organizations on subjects for which they have a special competence and which are related to the work of the Conference shall be distributed by the Secretariat to the participants in the quantities and in the languages in which the written statements were made available to it.

#### CHAPTER X: AMENDMENTS TO THE RULES OF PROCEDURE

##### Rule 47: Possibility of Amending the Rules of Procedure

With the exception of the present rule, these Rules may be amended by the Conference, meeting in Plenary.

#### CHAPTER XI: FINAL ACT

##### Rule 48: Signing of the Final Act

If a final act is adopted, it shall be open for signature by any Delegation.

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TLT/R/DC/3

October 5, 2005 (Original: English)

#### BASIC PROPOSAL FOR A REVISED TRADEMARK LAW TREATY

*submitted by the Director General of WIPO*

Editor's Note: Document TLT/R/DC/3 contains the Basic Proposal for a Revised Trademark Law Treaty. It is reproduced on pages 119 to 144 of these Records.

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TLT/R/DC/4

October 5, 2005 (Original: English)

BASIC PROPOSAL FOR THE REGULATIONS UNDER  
THE REVISED TRADEMARK LAW TREATY

*submitted by the Director General of WIPO*

Editor's Note: Document TLT/R/DC/4 contains the Basic Proposal for the Regulations under the Revised Trademark Law Treaty. It is reproduced on pages 145 to 156 of these Records.

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TLT/R/DC/5

October 5, 2005 (Original: English)

NOTES ON THE BASIC PROPOSAL FOR  
A REVISED TRADEMARK LAW TREATY AND REGULATIONS THEREUNDER

*prepared by the Secretariat*

INTRODUCTION

1. This document contains notes on the Basic Proposal for a Revised Trademark Law Treaty and Regulations Thereunder, contained in documents TLT/R/DC/3 and TLT/R/DC/4 respectively.
2. Notes contained have been prepared only with respect to those provisions of the Draft Revised Treaty and the Draft regulations where comments seemed useful.



## I. NOTES ON THE REVISED TRADEMARK LAW TREATY

*Notes on Article 1*  
*(Abbreviated Expressions)*

1.01 *Item (i)*. The term "Office" includes both the national Office of any State that is a Contracting Party to the Treaty, and the regional Office of any intergovernmental organization that is a Contracting Party, in accordance with Article 26(1).

1.02 *Item (iv)*. This item covers all communications received by the Office, including communications that are not specified in the Treaty or in the Regulations, for example, a request for recording a security interest or other restriction of the rights of the holder. In accordance with Article 8(6) there is only an obligation to comply with the requirements concerning communications as set out in Article 8(1) to (5).

1.03 *Item (v)*. Neither the Treaty nor the Regulations contain a definition of what constitutes a legal entity. This is left to the law of the Contracting Party where protection of a mark is sought. The question of whether an entity other than a natural person or a legal entity, for example a firm or partnership that is not a legal entity, is considered a person for the purpose of any procedure covered by the Treaty and the Regulations, remains a matter for the law of the Contracting Party concerned.

1.04 *Item (vi)*. Where the law of a Contracting Party provides that several persons may jointly be holders, the word "holder" should be construed as including "holders".

1.05 *Item (vii)*. The term "register of marks" is restricted to the collection of data concerning registered marks, excluding therefore the collection of data concerning pending applications.

1.06 *Item (viii)*. The expression "procedure before the Office" covers any procedure in which an applicant, holder or other interested person communicates with the Office, either to initiate proceedings before the Office or in the course of such proceedings. It covers all procedures in proceedings before the Office and is therefore not restricted to those procedures which are referred to in express terms. Examples of such procedures are the filing of an application, the filing of a request for recording of a license, the payment of a fee, the filing of a response to a notification issued by the Office, or the filing of a translation of an application. It also covers procedures in which the Office contacts an applicant, holder or other interested person in the course of proceedings relating to an application or a registration, for example, the issuance of a notification that an application does not comply with certain requirements, or the issuance of a receipt for a document or a fee. It does not cover procedures which, for legal purposes, are not part of the proceedings before the Office with respect to an application or a registration, for example, the purchase of a copy of a published application or the payment of a bill for information services provided by the Office to the public. It is understood that the words "procedure before the Office" would not cover judicial procedures under the applicable law.

*Notes on Article 2*  
*(Marks to Which the Treaty Applies)*

2.01 *Paragraph (1)*. The Treaty does not contain a definition of the term “mark”. However, to the extent that under the applicable law, particular types of signs may be registered as marks, the Treaty would apply to such marks. This includes the obligation for Contracting Parties to apply the Treaty to marks consisting of non-visible signs, if their law provides for the registration of such signs.

2.02 *Paragraph (2)(a)*. Under Article 16 of the Treaty, Contracting Parties are obliged to register service marks and to apply to service marks the provisions of the Paris Convention which concern trademarks.

2.03 *Paragraph (2)(b)*. Contracting Parties are not bound to apply the Treaty to collective marks, certification marks and guarantee marks. The reason is that the registration of those marks often requires the fulfillment of special, varying conditions in the different countries, a fact that would make harmonization particularly difficult. Furthermore, the number of such marks as compared to the total number of marks is very small. Contracting Parties would, however, remain free to apply the provisions of the Treaty to such marks.

2.04 Given the specific nature of the procedures established under the Madrid Agreement Concerning the International Registration of Marks and the Protocol Relating to that Agreement, this Treaty does not apply to such procedures.

*Notes on Article 3*  
*(Application)*

3.01 *Paragraph (1)(a)*. This provision contains a list of indications and elements that may be required in respect of an application. It establishes a maximum list of formal requirements that Contracting Parties are allowed to provide for the purposes of obtaining a registration. As follows from the introductory phrase of paragraph (4), the list is exhaustive, except where the applicant claims the benefit of Article 6*quinquies* of the Paris Convention (see Note 3.26).

3.02 *Item (i)*. An Office can consider that an application which does not contain an express request for registration is defective. It is to be noted, however, that under Article 5(1)(a)(i) even an implicit request for registration is sufficient for the purposes of according a filing date.

3.03 *Item (ii)*. The details concerning the indication of the name and address of the applicant are specified in the Regulations (see Rule 2(1)(a) and (2)).

3.04 *Item (iii)*. The indication of a State of nationality, of a State of domicile and of a State of real and effective industrial or commercial establishment may be relevant for the application of international conventions (see, for example, Articles 2 and 3 of the Paris Convention). It follows from the introductory phrase of paragraph (1)(a) that a Contracting Party has freedom not to require those indications, or require only some of them.

3.05 *Item (iv)*. Where, in a State, a legal entity may be constituted under the particular law of a territorial unit existing within such State, the name of that territorial unit must be given. A Contracting Party may require the indication of both the name of the State, and, where applicable, the name of the territorial unit within that State (for example, United States of America and California).

3.06 *Item (v)*. The details concerning the indication of the name and address of the representative are specified in the Regulations (see Rule 2). The representative can be a natural person, a legal entity or a partnership.

3.07 *Item (vii)*. This item does not affect the applicable provisions of a Contracting Party concerning the cases where the priority is claimed subsequent to the filing of the application, a possibility which is allowed under Article 4D(1), last sentence of the Paris Convention. Moreover, this item does not affect the possibility of asking, subsequent to the filing of the application, for proof under Article 4D(3) and (5) of the Paris Convention. Finally, in view of Article 16 of the Treaty, it should be noted that Contracting Parties must apply the provisions of the Paris Convention relating to the claiming of priority not only to trademarks but also to service marks.

3.08 *Item (viii)*. This item would apply where the temporary protection referred to in Article 11 of the Paris Convention may be invoked. Its inclusion in Article 3(1)(a) does not mean, however, that a Contracting Party is prevented from allowing the benefit of such temporary protection to be invoked at a later stage. Nor does it affect the possibility of requiring, under Article 11(3) of the Paris Convention, documentary evidence as proof of identity of the article or articles exhibited and of the date of its or their introduction in the international exhibition. Furthermore, in view of Article 16 of the Treaty, Contracting Parties must apply the provisions of Article 11 of the Paris Convention also to service marks. Finally, this provision enables an applicant to take advantage of a temporary protection resulting from the presentation of goods or services in a national exhibition if the law of the Contracting Party allows for such a possibility.

3.09 *Item (ix)*. The term “representation” is intended to cover both the graphic or photographic reproduction of a mark and any other means of representation, for example descriptions or electronic data files.

3.10 *Item (x)*. The consequences of such a statement are specified in the Regulations (see Rule 3(1),(2) and (4) to (6)). The fact that the applicant claims color has consequences on the number of reproductions of the mark which have to be furnished (see Rule 3(3)). A Contracting Party may require that the applicant state that the mark is a three-dimensional mark, even if this could be inferred from the reproduction of the mark.

3.11 *Item (xi)*. The details concerning transliteration are contained in the Regulations (see Rule 3(7)).

3.12 *Item (xii)*. Contracting Parties may wish to require a translation of the mark, for example, in order to evaluate the distinctive character of the mark or a possible conflict with public order. The details concerning translation are contained in the Regulations (see Rule 3(8)).

3.13 *Item (xiii)*. Whereas a grouping of names of goods and/or services according to the classes of the Nice Classification is required, the use of the precise terms of the Alphabetical List established in respect of that Classification is not required. The goods and/or services must be listed in the language, or in one of the languages, admitted by the Office where the application is filed. As regards the terms used by an applicant to designate the goods and/or services in the application, a Contracting Party is free, in the course of examination of that application, to require that any term that is general or too vague be replaced by a term or terms that is or are specific and clear.

3.14 *Item (xiv)*. The words “as required by the law of the Contracting Party” indicate that such a declaration would have to be worded in the terms and in the language prescribed by the law of the Contracting Party.

3.15 The expression “law” is to be understood to include, in this provision and throughout the Treaty and the Regulations, all binding norms issued by the legislative or the executive branches of the Contracting Party, including any rules issued by the Office, as well as court decisions.

3.16 *Paragraph (1)(b)*. If an applicant makes actual use of his mark in respect of all the goods and/or services listed in the application, he may file his application on the basis of actual use. He may also file his application on the basis of both intention to use and actual use where he actually uses the mark in respect of some of the goods and/or services listed in the application and intends to use the mark in respect of the other goods and/or services listed in the application. This provision corresponds to a provision existing, for example, in the laws of Canada and the United States of America.

3.17 *Paragraph (1)(c)*. In addition to the fee to be paid in respect of the application, there may be separate fees for the publication of the application and the registration. However, it is also possible (and compatible with the Treaty) to combine those fees and require payment of such a combined fee (which may nevertheless be called “application fee”) at the time of filing the application.

3.18 *Paragraph (2)*. Contracting Parties are free to base the amount of the fee to be paid for an application on the number of classes to which belong the goods and/or services included in the application. Thus, for Contracting Parties at present practicing a single class application system, the transition to the multiclass application system provided for by the Treaty need not cause any loss of fee income.

3.19 *Paragraph (3)*. A requirement relating to the furnishing of evidence of actual use of the mark prior to the registration of the mark, in cases where the application was not filed on the basis of actual use, exists in a few countries (for example, Canada and the United States of America).

3.20 The Regulations provide in Rule 3(9) for a minimum time limit for furnishing evidence of actual use under paragraph (3), and for the right to extend such time limit, subject to the conditions provided under the law of a Contracting Party.

3.21 *Paragraph (4)*. This paragraph establishes the exhaustive character of the list of requirements under paragraphs (1) and (3) and Article 8 not only at the time of filing of the application but also throughout the application stage ending with registration, subject to the possibility of requiring under paragraph (5) the furnishing of evidence. It should, however, be understood that paragraph (4) does not preclude a Contracting Party from requiring, where necessary, during the examination of an application, additional indications from the applicant concerning the registrability of the mark, for example, a statement of consent from a person whose name is the same as, or appears in the mark, documents to the effect of ensuring compliance with Article 6*ter* of the Paris Convention or documents concerning the ability of a certain person (such as a minor or a person under tutelage) to file an application.

3.22 *Items (i) to (iv)*. The examples given in items (i) to (iv) concern information or documents which cannot be required during the whole pendency of an application. The list is not exhaustive. The items listed merely serve to illustrate the effects of the Treaty with respect to some formalities which are particularly unnecessary and undesirable.

3.23 Under item (i) a requirement to furnish a certificate of, or an extract from, a register of commerce is prohibited because an applicant's *bona fide* existence and legal standing under the law of the applicant's country of establishment should be presumed by the Office. The likelihood that fictitious persons or irregular entities would go through the process of applying for the registration of marks seems very low, and does not seem to justify the inconvenience of requiring that all applicants submit certifications from a registry of commerce. Moreover, any obligation to submit a certification of establishment in the country where registration is sought would be proscribed by virtue of Article 2(2) of the Paris Convention.

3.24 Under item (ii) the requirement to submit an indication of the carrying on of an industrial or commercial activity, and the furnishing of evidence to that effect, is prohibited because marks may be owned by entities which themselves do not carry on an industrial or commercial activity, for example, holding companies.

3.25 Under item (iii) a requirement to submit an indication or evidence that the applicant is carrying on an activity corresponding to the goods or services listed in the application is prohibited because very often trademark applications are filed before the corresponding goods or services are actually put on the market. Many laws establish a period of time to allow the trademark owner to start using his mark in respect of the specified goods or services. Such periods may vary between three years counted from the date of filing and five years after registration. Failure to use the mark for the goods or services listed in the application or registration after those periods have expired may entail consequences under the applicable laws, including refusal or cancellation of registration.

3.26 Item (iv) reflects the rule of independence of marks under Article 6 of the Paris Convention. It prohibits making the protection of a mark dependent on its registration in another country party to the Paris Convention, including the country of origin. Therefore, evidence to the effect that the mark has been registered in another Contracting Party or in a State party to the Paris Convention which is not a Contracting Party of the TLT cannot be required. However, Article 6*quinquies* of the Paris Convention establishes a special right to

obtain the registration of a mark on the basis of a prior registration in the home country. A Contracting Party would therefore be entitled to require a certificate of registration in the country of origin where the applicant invokes the benefit contemplated in that provision.

3.27 *Paragraph (5)*. Evidence may be required whenever the application contains an allegation the veracity of which is reasonably doubtful. This applies even in the case of an allegation which is not required to be made under the law of the Contracting Party concerned. In the case of an allegation which is required to be made under that law, the provision of paragraph (5) constitutes an exception to the prohibition contained in paragraph (4). Such would be the case, for example, where the applicant claims the benefit of Article 3 of the Paris Convention but there is doubt as to the veracity of the applicant's allegations as to his domicile or his place of establishment.

3.28 The expression "examination of the application" as used in paragraph (5) includes any opposition procedure (which may take place before or after the registration of a mark). This provision does not relate to the correction of mistakes, but to cases where the Office believes that an indication or an element is not true.

3.29 The Office of a Contracting Party which is a party to the Paris Convention may also invoke this paragraph when it has to fulfill an obligation under the Paris Convention, for example, where it has reasonable doubts concerning the right of the applicant to file an application for a mark which consists of a sign, or is similar to a sign, protected under Article 6ter of the Paris Convention.

*Notes on Article 4*  
*(Representation; Address for Service)*

4.01 *Article 4*. This Article does not apply to representatives who are employees or officials of a legal entity (whether applicant or holder), for example, executive officers or in-house counsels of a corporation. It typically applies to trademark agents and attorneys in private practice. This Article relates only to the appointment itself and to the possible limitation of the appointment, but does not deal with the termination of the appointment. In the latter respect, and in respect of any other matter relating to representation which is not covered by the Treaty, a Contracting Party will apply its own law. For example, a Contracting Party may provide that the appointment of a new representative terminates the appointment of all previous representatives. Or, a Contracting Party may allow sub-representation and in that case, require that, where the power of a representative extends to the appointment of one or more sub-representatives, the power of attorney expressly authorize a representative to appoint such sub-representatives.

4.02 *Paragraph (1)(a)*. Under this provision, a Contracting Party is allowed to require that the appointed representative be a person entitled to practice before its Office and that such person provide an address in a specified territory. A Contracting Party may however, have a less strict requirement and may, for example, require only one of those conditions, neither of them, or establish other requirements.

4.03 *Paragraph (1)(b)* defines the legal effect of acts performed by an appointed representative in the context of procedures before the Office, under the Treaty. This provision would override any provisions in the laws of the Contracting Parties that might establish a different effect for acts performed by representatives.

4.04 Under *paragraph (2)(a)* a Contracting Party may require representation for any procedure before the Office where an applicant, a holder or an interested person has neither a domicile nor a real and effective industrial or commercial establishment on its territory.

4.05 *Paragraph (2)(b)*. The laws of some countries do not require that a representative be appointed before their Offices even where the applicant or the new holder has neither a domicile nor a real and effective industrial or commercial establishment on the territory of those countries. In each case, those countries may require, for the purposes of facilitating correspondence with the person concerned, that an address for service in their territory be indicated.

4.06 *Paragraph (3)(a)*. It follows from this paragraph that a Contracting Party may refuse the appointment of a representative made by oral communication or in a communication other than a power of attorney, for example, a statement in the application itself, or in any other communication under Articles 10 to 13, 17 and 18. The reference, in this provision, to “any other interested person” covers, for example, an opponent.

4.07 *Paragraph (3)(b)*. This provision puts an obligation on Contracting Parties to accept a single power of attorney in respect of several applications, several registrations or both applications and registrations of the same person. Contracting Parties must also accept what is sometimes referred to as a “general power of attorney”, that is, a power of attorney that relates to all existing and future applications and/or registrations of the same person. In respect of the latter type of power of attorney to which the words “subject to any exception indicated by that person” relate, a Contracting Party must allow the person making the appointment to indicate possible exceptions in the power of attorney itself (for example, appointment only for future applications and registrations) or to make exceptions at a later time.

4.08 *Paragraph (3)(c)*. An applicant or holder could appoint a representative in respect of certain matters (for example, filing of applications and renewal of registrations) and appoint another representative in respect of other matters (for example, treatment of objections and oppositions). Alternatively, where the applicant or holder does not need to appoint a representative (for example, for domestic applications and registrations), he could carry out certain operations (for example, filing of applications) himself and appoint a representative only for the remaining matters. The possibility for a Contracting Party to require that the right for a representative to withdraw an application or surrender a registration be expressly mentioned in the power of attorney is justified in view of the particularly important consequences of such acts.

4.09 *Paragraph (3)(d)*. As regards the time limit to present the power of attorney (see Rule 4).

4.10 *Paragraphs (5) and (6)*. Paragraph (5) establishes the exhaustive character of the list of requirements under paragraphs (3) and (4) and in Article 8 with respect to the matter of representation as covered by the Treaty, subject to the possibility of requiring under paragraph (6) the furnishing of evidence in cases of reasonable doubt.

*Notes on Article 5  
(Filing Date)*

5.01 *Article 5*. This Article establishes an exhaustive list of requirements for according a filing date to an application. The fact that, for the purpose of according a filing date, a Contracting Party cannot require more indications and elements than those mentioned in paragraph (1)(a) (subject to paragraph (2)) follows from paragraph (4).

5.02 *Paragraph (1)*. The words “subject to subparagraph (b) and to paragraph (2)” mean that Contracting Parties may require less indications and elements than those referred to in items (i) to (vi) of subparagraph (a), and may require, in addition to those indications and elements, the payment of a fee.

5.03 *Item (i)*. “Implicit” means that a Contracting Party must accord a filing date even where the request is not express but can be inferred from the circumstances.

5.04 *Item (ii)*. Such indications could, for example, consist of the applicant’s identification code (rather than his name) in Offices that allow the use of such codes, for example, in the case of electronic filings.

5.05 *Item (iii)*. Such indications could, for example, consist of less than the full address or an e-mail address.

5.06 *Item (iv)*. Although in certain circumstances more than one reproduction of the mark may be required, the filing date could not be denied if only one reproduction is furnished or if among the reproductions furnished, only one reproduction is “sufficiently clear”.

5.07 *Item (v)*. The list of goods and services must be accepted even if at the time of filing it is not presented as required under Article 3(1)(a)(xvii).

5.08 *Paragraph (2)*. The requirement that fees be paid as a condition for the filing date still exists in some countries. This paragraph allows the continuation of that requirement in those countries where it already exists. However, a Contracting Party may not introduce this requirement once it has become bound by the Treaty.

5.09 *Paragraph (3)*. The details are provided for in Rule 5(1) and (2).

5.10 *Paragraph (4)*. The requirements under paragraphs (1) and (2) are exhaustive in respect of the filing date of an application. This, however, does not affect the freedom of Contracting Parties in respect of the means of transmittal of applications, as provided under Article 8(1).



*Notes on Article 6*  
(*Single Registration for Goods and/or Services in Several Classes*)

6.01 This provision prevents single applications from being subsequently split *ex officio* into two or more registrations. However, an application will result in a registration only if all the conditions for allowance are fulfilled. If the application is divided into several applications under Article 7, there will be as many registrations as there are applications.

*Notes on Article 7*  
(*Division of Application and Registration*)

7.01 *Paragraph (1)(a)*. A division of the initial application may relate to only one or some of the goods or services included in the initial application (which may be either a single class or a multiple class application) or to one or several classes of goods and/or services covered by the initial application. The words “decision by the Office on the registration” or “decision on the registration”, respectively appearing in items (i) and (iii), concern a decision to register or not to register. Typically, the applicant is interested in dividing the application where an objection by the Office or an opposition filed against the registration of the mark affects only some of the listed goods and services. In such a situation, a division into two divisional applications could allow one of the divisional applications to proceed immediately to registration, while the objection or opposition proceedings would continue only with respect to the other divisional application.

7.02 Article 7 does not oblige Contracting Parties to allow division of the applications after a (positive or negative) decision has been taken by the Office regarding the registration of the mark. This is so because, if a positive decision is made, any request for division would hamper the registration of the mark and its publication and if a negative decision is made, division may be requested during appeal proceedings against the decision but not if no appeal is filed. Of course, each Contracting Party would be free to allow for the division of an application also in situations where this is not required by the Treaty.

7.03 *Paragraph (1)(b)*. The words “requirements for the division” mean, in particular, the elements or the indications to be given in the request for division.

7.04 *Paragraph (2)*. Typically, the possibility of dividing a registration is needed in cases where an opposition can only be filed after the mark has been registered (“post-grant opposition”). If the opposition affects only some of the goods and/or services covered by the registration, the holder should have an opportunity to divide his registration. This will be useful to him, for example, if he intends to negotiate a partial transfer or license agreements in respect of the goods and/or services which are not affected by the said procedure. It is to be noted that the proviso of this paragraph allows a Contracting Party to exclude post-grant division if the law of that Contracting Party allows opposition to applications (that is, pre-grant opposition).

7.05 The need to divide a registration may also arise out of business or commercial considerations. Nothing in the Treaty prevents Contracting Parties from allowing such division at any point in time during the life of the registration.

*Notes on Article 8  
(Communications)*

8.01 As to the meaning of the term “communication”, reference is made to Article 1(iv) (see Note 1.02).

8.02 *Paragraph (1)*. The expression “means of transmittal” refers to the physical or electronic means used to transmit a communication to the Office, while “form of communications” refers to the physical form of the medium which contains the information. Therefore, an application on paper mailed to the Office is a communication in paper form transmitted by physical means, while a floppy disk mailed to the Office is a communication in electronic form transmitted by physical means. A telefacsimile transmission is a communication in paper form transmitted by electronic means. An electronic transmission from computer to computer is a communication in electronic form transmitted by electronic means. The expression “transmittal of communications” refers to the transmission of a communication to the Office.

8.03 *Paragraph (2)(a)*. This provision deals globally with the language requirements for all communications before the Office. Consequently, the language provisions which were contained in Articles 3(3) (*Application*), 4(4) (*Power of Attorney*), 10(1)(c) (*Change in Name and Address*), 11(2) (*Change in Ownership*), 12(1)(c) (*Correction of Mistakes*), 13(3) (*Renewal of Registration*) of the TLT 1994 have been deleted. The expression “a language admitted by the Office” refers to a verbal language and not, for example, to a computer language. What constitutes a language admitted by the Office is determined by the Contracting Party concerned. Nothing in paragraph (2)(a) would prevent a Contracting Party from considering a communication accompanied by a translation as being transmitted in a language admitted by the Office.

8.04 The second sentence of Article 8(2)(a) enables countries or intergovernmental organizations (such as the European Communities) which allow the filing of applications in different languages, to require the applicant, holder or other interested person, to comply with any other language requirements applicable with respect to their Offices, provided that an indication or an element of the communication may not be required to be in more than one language. It also enables a Contracting Party to require that some indications or elements of the communication, such as the list of goods and services, be in a language admitted by the Office which does not necessarily have to be the official language of the Office, and that some other indications or elements of the communication be in the official language of the Office. However, no element or indication may be required to be in more than one language.

8.05 *Paragraph (2)(b)*. By virtue of this provision a Contracting Party could not require a translation to be, for example, certified by a notary public or by a consular authority.

8.06 *Paragraph (2)(c)*. Where the Office accepts a communication in a foreign language, it may require that a translation by an official translator or a representative be submitted to the Office. The Office may require that the translation of the communication be supplied within a reasonable time limit as may be defined by the Contracting Party.

8.07 *Paragraph (3)* applies whenever a Contracting Party requires a signature or other means of self-identification on a communication on paper. The possibility for Contracting Parties to require the signature of the applicant, holder or other interested party, as the case may be, on a specific communication, is explicitly foreseen by the TLT 1994 in the articles dealing with application (Article 3(1)(a)(xvi) and (4)), representation (Article 4(3)(a)), filing date (Article 5(1)(a)(vi)), changes in names or addresses (Article 10(1)(a)), changes in ownership (Article 11(1)(a)), correction of a mistake (Article 12(1)(a)) and renewal (Article 13(1)(a)(ix)). Because of the cross-cutting nature of Article 8, the reference to signature was deleted in those provisions. It is to be noted that the term “signature” is only used in relation to communications on paper, whether or not such communications are transmitted by physical or electronic means of transmittal. When a Contracting Party provides for the filing of communications in electronic form, it has complete freedom to require use of a system of electronic authentication preserving the confidentiality and integrity of the communication as it wishes to prescribe (e.g., an electronic key and lock system). In order to avoid confusion, the term “electronic signature” is not used for this type of electronic authentication system. It is implicit that the “signature” of a communication must be that of a person who is authorized to sign the communication concerned. Accordingly, an Office may, in accordance with the applicable law, reject the signature of a person who is not so authorized.

8.08 *Paragraph (3)(a)*. Details concerning the signature of communications on paper are prescribed in Rule 6(1) to (4). Certain forms of signature that a Contracting Party must or may accept, or may require, are expressly referred to under Rule 6(3), namely a hand-written, printed or stamped signature, a seal or a bar-coded label.

8.09 *Paragraph (3)(b)*. This provision obliges a Contracting Party to accept the signature of the person concerned as sufficient, without the need for further authentication by way of, for example, attestation or notarization of that signature. The only exception that may be envisaged under national law refers to signatures on communications on paper that concern the surrender of a registration, if the law of the Contracting Party so provides.

8.10 *Paragraph (3)(c)*. In case of reasonable doubt as to the authenticity of the signature, the Office may require the applicant, holder or other interested person filing the communication to file evidence of authenticity. Such evidence may be in the form of certification of the signature or by any other means allowed by the law of the Contracting Party.

8.11 *Paragraph (4)*. Details under this paragraph are prescribed in Rule 6(4) to (6).

8.12 *Paragraph (5)*. This paragraph contains a general provision dealing with the presentation of communications in respect of the different procedures for which Model International Forms are contemplated in the Regulations. Therefore, the corresponding provisions previously contained in Articles 3(2) (*Application*), 4(3)(e) (*Power of Attorney*), 10(1) (*Change in Name and Address*), 11(1) (*Change in Ownership*), 12(1) (*Correction of Mistakes*), 13(2) (*Renewal of Registration*) of the TLT 1994 have been replaced by this paragraph.

8.13 Under paragraph (5) a Contracting Party is obliged to accept a communication, whether transmitted to the Office on paper or in electronic form or by electronic means if its content corresponds to the Model International Form provided for in the Regulations in respect of such a communication (see Note on the Model International Forms).

8.14 *Paragraph (6)*. The reference to paragraphs (1) to (5) does not prevent the Contracting Parties from applying the requirements permitted under other articles, such as Articles 3, 10 to 14, 17 and 18.

*Notes on Article 9  
(Classification of Goods and/or Services)*

9.01 *Paragraph (1)*. This provision obliges Offices of Contracting Parties to refer by name to the goods and services specified in the registration of a mark, and in any publication of an application or registration relating to a mark. It also requires that the relevant class number(s), as established by the Nice Classification, be indicated, and that the goods and services belonging to the same class be grouped together under the corresponding class number. The Nice Classification was established by the Nice Agreement of 1957. Its eighth edition (in force since 2002) consists of 34 classes for goods and 11 classes for services, each having a number (from 1 to 45).

9.02 *Paragraph (2)*. This provision requires Contracting Parties not to consider the class or classes under which the specified goods or services are grouped as the decisive criterion to determine similarity or dissimilarity among those goods or services. This recognizes that goods or services classified in different classes may, in the circumstances of a particular case, be found to be similar or related, while under other circumstances goods or services covered in the same class may be found to be dissimilar or unrelated. The issue of similarity between goods or services can be relevant to determine the scope of protection in cases of conflict between two marks.

*Notes on Article 10  
(Changes in Names or Addresses)*

10.01 *Paragraph (1)(a)*. Contracting Parties are required to accept requests to record changes in names, changes in addresses and changes in both names and addresses.

10.02 *Paragraph (1)(b)*. The names and addresses referred to in paragraph (1)(b) must be those which are recorded in the register of marks of the Office concerned. If that is not the case, the Office can require either the furnishing of evidence under paragraph (5) or that another change be recorded beforehand.

10.03 *Paragraphs (1)(c) and (d)*. The amount of the fee could differ depending on the number of the registrations or applications involved.

10.04 *Paragraph (2)*. In respect of a request relating to one or several applications, a Contracting Party is free not to record the change in its register of marks but to record it in a data base concerning pending applications; in such a case, the change would be included in the register of marks once the mark is registered.

10.05 *Paragraph (4)*. This paragraph establishes the exhaustive character of the list of requirements under paragraphs (1) to (3) and Article 8 with respect to a request for a change in name or address. This would prohibit, for example, the requirement to furnish a certified copy of the recording of the change in a register of companies, or a certified copy of the decision to change the name or address.

*Notes on Article 11  
(Change in Ownership)*

11.01 *Article 11*. This Article only deals with procedures to be fulfilled before an Office and not before other authorities of a Contracting Party, for example, fiscal authorities or a public registry of companies.

11.02 *Paragraph (1)(a)*. The term "new owner" is used rather than "new holder" because, at the time of the request for recording of the change in ownership, the person who has acquired the rights is not yet a holder since she or he is not recorded as such on the register of marks.

11.03 *Paragraphs (1)(b) to (e)*. These paragraphs distinguish three cases, namely, a change in ownership resulting from a contract, a change in ownership resulting from a merger and a change in ownership resulting from the operation of law or from a court decision (inheritance, bankruptcy, etc.).

11.04 *Paragraph 1(b)* relates to a change in ownership that results from a contract. Any Contracting Party may require that the request to record the change indicate the fact that such change results from a contract and that the request be accompanied by a document evidencing the change. Items (i) to (iv) list four different documents, and it is up to the requesting party to choose one of them to substantiate this request. Where the requesting party chooses to furnish a certificate of transfer or a transfer document (items (iii) and (iv)), no Contracting Party may require that this certificate or document be the subject of any form of certification. On the other hand, where the requesting party chooses to furnish a copy of the contract or an extract of the contract (items (i) and (ii)), a Contracting Party is free to require that the copy or the extract be certified. The Regulations provide for a model certificate of transfer and a model transfer document. The latter can effectively function as a model contract (in a short version).

11.05 *Paragraph 1(c)* relates to a change in ownership that results from a merger. The request to record the change must, if the Contracting Party so requires, indicate the fact that such change results from a merger and be accompanied by a copy of a document evidencing the merger. This document must originate from the competent authority. It may, for

example, be an extract from a register of commerce. The Contracting Party may only require that a copy of the merger document be furnished; it may not require the original of the document. However, it may require that the copy be certified.

11.06 *Paragraph (1)(d)*. Where a co-holder transfers his share in a registration, he may, under the applicable law, need the consent of any other co-holder. The Treaty allows Contracting Parties to require the furnishing of a document in which the said consent is given.

11.07 *Paragraph (1)(e)*. This paragraph relates to any change in ownership that results neither from a contract nor from a merger. In such a case, the Contracting Party may require that the request to record the change indicate the legal cause of such change (operation of law, court decision, etc.) and be accompanied by a copy of any document which it deems appropriate to evidence the change. Although the Contracting Party may not require that the original of such a document be furnished, it may require that the copy emanate from the authority that issued the document or that it be certified.

11.08 *Paragraphs (1)(g) and (h)*. The explanations given on Article 10(1)(c) and (d) are also applicable to these paragraphs (see Note 10.03).

11.09 *Paragraph (1)(i)*. This provision deals with the consequences of a request for the recording of a change of ownership in the case where the change concerns only some of the goods and/or services covered by the registration. In such a case, the Office must divide the registration: the original registration will continue to exist, without reference to the goods and/or services in respect of which the ownership has changed, and a separate registration has to be created in the name of the new owner for those goods and/or services. It is left to each Contracting Party to decide how the separate registration should be identified. This can be done, for example, by giving it the same number as the number of the original registration, together with a capital letter. This would be in accordance with the practice under the Madrid Agreement Concerning the International Registration of Marks and the Protocol relating thereto. Paragraph (1)(i) only applies where a Contracting Party allows for such partial change in ownership. Since this Treaty does not cover the substantive conditions relating to the change in ownership of a registration, a Contracting Party is free to refuse a partial change in ownership and consequently, a request for recording of such change. A Contracting Party that admits in principle a partial change in ownership of a mark could refuse such change in specific cases on grounds of public order, for example if the split of goods or services among the original and new owner is such that it is likely to cause confusion or is misleading.

11.10 *Paragraph (2)*. The explanations given on Article 10(2) are also applicable to this paragraph (see Note 10.04).

11.11 *Paragraph (3)*. This paragraph establishes the exhaustive character of the list of requirements under paragraphs (1) and (2) and in Article 8 with respect to a request for the recording of a change in ownership, always subject to the possibility of requiring under paragraph (4) the furnishing of evidence. The examples given in items (i) to (iv) are not exhaustive. Another example of a prohibited requirement could be making the admissibility of the request dependent on an advertisement of the change in ownership in one or several newspapers. Since the Treaty does not regulate the substantive requirements relating to the

validity of a change in ownership, a Contracting Party may require the fulfillment of additional conditions, for example, in situations concerning inheritance, bankruptcy or tutelage.

11.12 *Items (i) to (iii)*. The explanations given on Article 3(4) items (i), (ii) and (iii) are also applicable to these items (see Notes 3.26 to 3.28).

11.13 *Item (iv)*. This provision does not deal with the question of validity of the transfer of a mark in the absence of a simultaneous transfer or assignment of the relevant business or goodwill. It only specifies that certain formal requirements are not allowed in respect of a request to record the change in ownership of a registered mark. The question of assignment of goodwill in conjunction with the transfer of marks is a matter that may be dealt with under national law. As regards the transfer of the relevant business, Article 21 of the TRIPS Agreement provides that the owner of a registered mark shall have the right to assign the mark with or without the transfer of the business to which the mark belongs.

*Notes on Article 12  
(Correction of a Mistake)*

12.01 *Paragraphs (1) to (4)* of this Article relate to mistakes attributable to the applicant or to the holder, or to his/her representative.

12.02 *Paragraphs (1)(b), (c) and (d)*. The explanations given on Article 10(1)(b), (c) and (d) are also applicable to these paragraphs (see Notes 10.02 and 10.03).

12.03 *Paragraph (2)*. The explanations given on Article 10(2) are also applicable to this paragraph (see Note 10.04).

12.04 *Paragraph (3)*. This paragraph establishes the exhaustive character of the list of requirements under paragraphs (1) and (2) and in Article 8 with respect to a request for the correction of a mistake.

12.05 *Paragraph (4)*. If the Office has reasons to suspect that what is submitted as a mistake to be corrected is in fact a change of name, address or ownership, or any other operation, it could require that evidence be supplied to clarify the matter.

12.06 *Paragraph (5)*. In the case of mistakes attributable to an Office, the latter may adopt a procedure such as *ex officio* correction or, where the mistake is noticed by the applicant or the holder, or by his representative, correction following a request made by them in a simple letter.

12.07 *Paragraph (6)*. A Contracting Party is not obliged to accept a request to correct a mistake that may not be corrected under the law of that Party. For example, if the law of a Contracting Party does not admit that a mark may be changed or altered after an application for its registration has been filed, the Office of that Contracting Party would not be obliged under Article 12 to accept a request for change or alteration of the mark on grounds that the mark contained a mistake in its spelling or in any of its features.

*Notes on Article 13*  
*(Duration and Renewal of Registration)*

13.01 This provision provides a maximum list of requirements in respect of requests for the renewal of registrations.

13.02 *Paragraph (1)(a)*. This paragraph contains an exhaustive list of the indications and elements which may be required in respect of a renewal. The exhaustive character of the list follows from paragraph (2). This list constitutes a maximum, and Contracting Parties are free to require fewer indications or elements. For example, Contracting Parties may accept renewals effected by the mere payment of the renewal fee, without the submission of a formal request.

13.03 *Item (i)*. An Office may require an express indication that renewal is sought. Contracting Parties are, however, free to admit an implied indication to that effect.

13.04 *Item (iv)*. Two dates are indicated in this provision because, according to the laws of some countries, the initial duration of a registration is calculated from the date of filing of the application which resulted in the registration, while according to the laws of other countries, that duration is calculated from the date of registration. Some Contracting Parties may not require the furnishing of any date if they consider that the indication of the registration number under item (iii) is sufficient to identify the registration which is the subject of the request for renewal. On the other hand, any Contracting Party requiring the furnishing of a date will have to opt for one of the two dates (filing date or registration date), and could not require both to be furnished.

13.05 *Item (vii)*. Any Contracting Party is free not to allow a limitation of the list of goods and/or services to take place together with the request for renewal. In those Contracting Parties, a limitation of the list of goods and/or services would have to be requested separately, before or after the renewal.

13.06 *Paragraph (1)(b)*. This provision does not prohibit a Contracting Party from requiring an additional fee or a higher renewal fee where such Contracting Party allows, under paragraph (1)(a)(vii), that a limitation of the list of goods and/or services be made in the request for renewal itself and such limitation is requested. The second sentence of this provision makes it clear that, for any 10-year period, a Contracting Party is only allowed to require the payment of one set of fees.

13.07 *Paragraph (1)(c)*. Rule 8 deals with the minimum period for requesting renewal and paying the renewal fee.

13.08 *Paragraph (2)*. This paragraph establishes the exhaustive character of the list of requirements under paragraph (1) and in Article 8 always subject to the possibility of requiring under paragraph (3) the furnishing of evidence in case of reasonable doubt.



13.09 The examples given in paragraph (2) are not exhaustive. They serve to illustrate the effects of the Treaty with respect to some formalities which seem to be particularly unnecessary and undesirable at the time of renewal. Other examples could be, the furnishing of the original or a copy of the certificate of the registration of the mark which is the subject of the request for renewal.

13.10 *Item (i)*. An obligation to furnish any reproduction or other identification (for example, the simple indication of a mark published in standard characters) of the mark that is the subject of the request for renewal, is prohibited because it would be superfluous. The mark that is to be renewed is the same as the one that was initially registered (if this were not the case, a new application would have to be filed) and the publications of a renewal need not contain the mark (it only needs to refer to the number of the initial registration without having to republish the reproduction of the mark). The practice of not republishing the mark is already followed by a number of countries and has advantageous consequences both for the holders of registrations (lower renewal fee, in particular, where the republishing of the reproduction of the mark would have to be in color) and for the Offices (simplification of administrative work and reduction of the space needed in the official bulletin in respect of renewals). Nothing in the Treaty prohibits a Contracting Party from republishing, in connection with the publication of the renewal, the reproduction of the mark as registered, which the Office has in its files. What is prohibited is to require the holder to furnish a further reproduction of the mark for the purposes of the renewal.

13.11 *Item (ii)*. This provision follows the same rationale as that in Article 3(4)(iv). It reflects the rule of independence of marks as derived from Article 6 of the Paris Convention. Consequently, renewal of the registration of a mark in a Contracting Party may not be linked or subjected to registration or renewal of that mark in any other Office, whether or not in a Contracting Party (see Note 3.29).

13.12 *Item (iii)*. It is understood that nothing in the Treaty prevents a Contracting Party from applying the requirements of its law in respect of the use of the mark which is the subject of a registration, provided that the compliance with such requirements is not linked with the procedure for the renewal of that registration.

13.13 *Paragraph (4)*. The procedure relating to the renewal of a registration cannot include an examination as to substance. The renewal of a registration merely implies an extension in time of an existing registration. The facts that determined the registration of the mark, as verified during the initial examination of the sign, remain valid for the purposes of renewal. This will ensure that renewal procedures remain as simple and inexpensive as possible. Nothing would prevent a Contracting Party to provide for the expunging of a mark from the registry if preexisting or new grounds for cancellation or invalidation are established. However, this procedure may not be linked to, or combined with, the renewal procedure.

13.14 *Paragraph (5)*. This provision aims at harmonizing the duration of the initial registration and of each renewal. As regards the duration of the initial registration, the proposed 10 years correspond to the duration provided for in most national laws.

13.15 Neither the Treaty nor the Regulations determine the date from which the periods of initial registration or of renewal are to be counted. This is left to the law of each Contracting Party.

*Notes on Article 14*  
*(Relief Measures in Case of Failure to Comply with Time Limits)*

14.01 This Article deals with different relief measures in respect of time limits. Such relief measures may take the form of an extension of the time limit, continued processing or reinstatement of rights. Contracting Parties have an obligation to provide for a particular type of relief measure only in cases of failure to comply with a time limit when that time limit has already expired. Nevertheless, the Treaty contemplates the possibility for Contracting Parties to provide for the extension of a time limit prior to the expiry of the time limit (Article 14(1)) without creating an obligation to that effect.

14.02 *Paragraph (2)*. Under this paragraph, Contracting Parties are obliged to provide for one of the three relief measures mentioned in items (i) to (iii) after the expiry of the time limit concerned. However, Contracting Parties are free to choose the form of relief to be provided. It goes without saying that Contracting Parties are free to provide several or all of the relief measures set out in Article 14(2). The relief that a Contracting Party is obliged to provide under paragraph (2) does not apply to time limits in procedures that are not before the Office, for example, proceedings before a court, or a board of appeal, constituted in the framework of the Office (see Note R9.07).

14.03 *Paragraph (2)(i)*. The possibility to file a request for extension of a time limit after the time limit has expired is dealt with in detail in Rule 9(1).

14.04 *Paragraph (2)(ii)*. The effect of continued processing is that the Office will continue with the procedure concerned as if the time limit had been complied with. Also, the Office must, if necessary, reinstate the rights of the applicant or holder with respect to the relevant application or registration. The details for a request for continued processing are prescribed in Rule 9(2).

14.05 *Paragraph (2)(iii)*. In contrast to the extension of a time limit or continued processing of a request, reinstatement of rights is subject to a finding by the Office that the failure occurred in spite of due care required by the circumstances or, at the option of the Contracting Party, that the failure was unintentional. The interpretation of the terms “due care” and “unintentionality” are left to the applicable law and practice in the Contracting Party. The requirements and the time limits for filing a request for reinstatement of rights are dealt with in Rule 9(3).

14.06 *Paragraph (3)*. The cases of failure to comply with a time limit that could be excepted from the obligation to provide for a relief measure are prescribed in Rule 9(4).

14.07 *Paragraph (5)*. This provision prevents a Contracting Party from imposing requirements additional to those provided under paragraphs (1) and (2) and Article 8. In particular, the applicant or holder concerned cannot be required to state the grounds on which

the request is based or to file evidence with the Office as regards paragraph (2)(i) and (ii) concerning an extension of the time limit and continued processing. However, this provision allows the Office to require evidence in support of the reasons for the failure to comply with a time limit under paragraph (2)(iii).

14.08 The Treaty and Regulations do not regulate the intervening rights, if any, acquired by a third party for any acts which were started, or for which effective and serious preparations were started, in good faith, during the period between the loss of rights resulting from the failure to comply with the time limit concerned and the date on which those rights are reinstated. These remain a matter for the law of the Contracting Party concerned.

*Notes on Article 15  
(Obligation to Comply with the Paris Convention)*

15.01 Nothing in the Treaty derogates from obligations that Contracting Parties have towards each other under the Paris Convention.

15.02 Likewise nothing in the Treaty derogates from rights that applicants and holders enjoy under the Paris Convention.

*Notes on Article 16  
(Service Marks)*

16.01 According to Article 6*sexies* of the Paris Convention, the countries party to that Convention are obliged to protect service marks, but are free not to register such marks. Article 16 of the TLT means that, by becoming Contracting Parties to this Treaty, Contracting Parties are obliged to register service marks and apply to service marks all the provisions of the Paris Convention that would be applicable to trademarks (i.e., marks for goods). Those provisions include the following:

- Article 2, which deals with national treatment for nationals of countries of the Paris Union;
- Article 3, which assimilates certain categories of persons to the status of nationals of countries of the Paris Union;
- Article 4A to D, which deal with the right of priority;
- Article 5C and D, which deal with the questions of failure to use a mark, use of the mark in a form different from the one registered, use of the mark by co-proprietors and marking;
- Article 5*bis*, which deals with the period of grace for the payment of fees for the maintenance of rights;
- Article 6, which deals with the conditions of registration and the independence of protection of the same mark in different countries;
- Article 6*bis*, which deals with well-known marks;
- Article 6*ter*, which deals with the prohibitions concerning State emblems, official hallmarks and emblems of intergovernmental organizations;
- Article 6*quater*, which deals with the question of assignment of marks;

- Article 6*quinquies*, which deals with the protection of marks registered in one country of the Paris Union in the other countries of that Union;
- Article 6*septies*, which deals with the registration of a mark in the name of the agent or representative of the proprietor without the latter’s authorization;
- Article 7, which deals with the nature of the goods to which the mark is applied;
- Article 9, which deals with seizure, on importation, etc., of goods unlawfully bearing a mark;
- Article 10*ter*, which deals with remedies and the right to sue;
- Article 11, which deals with temporary protection at certain international exhibitions;
- Article 12, which deals with special national industrial property services.

16.02 Article 7*bis* of the Paris Convention is not included in the foregoing list because under Article 2(2)(b) the TLT does not apply to collective marks (whether for goods or services).

*Notes on Article 17*  
(*Request for Recordal of a License*)

17.01 This Article applies to requests for the recordal of licenses for the use of a mark with the Offices of Contracting Parties, i.e. the agencies entrusted by Contracting Parties with the registration of marks. A Contracting Party is not required by the Treaty to provide for the recordal of licenses with its Office. However, to the extent that such recordal is contemplated, Article 17 would apply.

17.02 *Paragraph (1)*. The list of indications and elements which may be required to be included in a request for the recordal of a license, as well as the accompanying documents, are prescribed in the Regulations.

17.03 *Paragraph (2)*. As regards the amount of fees that an Office may charge for the recordal of a license, it should be noted that nothing in the text would prevent an Office from charging varying fees depending on the number of registrations to which the request relates.

17.04 *Paragraph (3)* is in line with the approach adopted in Articles 10(1)(d), 11(1)(h) and 12(1)(d) namely, to allow that requests for recordal can refer to more than one registration. This is an important simplification in cases where a license is granted for several marks (for example, a series of marks). However, this is subject to the following conditions: The holder and the licensee must be the same for all registrations covered by the license for which recordal is requested and, where applicable, the scope of the license in accordance with Article 17(1) must be indicated with respect to all registrations covered by the license for which recordal is requested. If these conditions are not met, for example, if the holder and the licensee are not identical in respect of all registrations contained in the request, the Office may require that separate requests be filed. Since paragraph (3) only describes the situations in which an Office is obliged to accept a single request for several registrations, an Office is free to accept a single request even if the conditions outlined in paragraph (3) are not met.

17.05 *Paragraph (4)(a)*. For the purposes of the recordal of a license with its Office, a Contracting Party may not require that the applicant file information in addition to what may be required under paragraph (1), and, by reference, the applicable rule.

17.06 By way of example of information that may not be required, items (i) to (iii) mention certain items whose furnishing to an Office is usually regarded by the parties to a license contract as particularly burdensome, or as revealing confidential business information.

17.07 *Paragraph (4)(b)* makes it clear that paragraph (4)(a) does not prevent other authorities of Contracting Parties (for example, tax authorities or authorities establishing statistics) from requiring the parties to a license contract to furnish information in accordance with the applicable law.

17.08 *Paragraph (6)*. Article 17, the relevant rule and the model request Form contained in the Regulations are applicable to requests for the recordal of licenses in respect of applications, if the law of a Contracting Party provides for such recordal. It should be noted that Rule 7 (*Manner of Identification of an Application Without Its Application Number*) would be applicable.

#### *Notes on Article 18*

##### *(Request for Amendment or Cancellation of the Recordal of a License)*

18.01 Where a license has been recorded with an Office, such recordal may be the subject of a request for amendment or cancellation. Like Article 17(1), Article 18(1) contains a reference to the Regulations which prescribe the detailed elements and indications which a Contracting Party may require in a request for the amendment or cancellation of the recordal of a license, as well as the necessary accompanying documents. With regard to the general requirements for such a request, paragraphs (2) to (5) of Article 17 apply *mutatis mutandis*.

#### *Notes on Article 19*

##### *(Effects of the Non-Recordal of a License)*

19.01 *Paragraph (1)*. The purpose of this paragraph is to separate the question of the validity of the registration of a mark and the protection of that mark from the question whether a license concerning the said mark was recorded. If the law of a Contracting Party provides for the mandatory recordal of licenses, non-compliance with that requirement may not result in the invalidation of the registration of the mark which is the subject of the license, and may not affect in any way the protection afforded to that mark. It is to be noted that this paragraph concerns the recordal of a license with the Office or other authority of a Contracting Party such as, for example, the tax authority or the authority responsible for the establishment of statistics.

19.02 *Paragraph (2)*. This provision does not intend to harmonize the question whether a licensee should be allowed to join proceedings initiated by the licensor, or whether it would be entitled to damages resulting from an infringement of the licensed mark. This question is left to the applicable law. However, where a licensee has the right under the law of a

Contracting Party to join infringement proceedings initiated by the holder and to obtain damages resulting from an infringement of the licensed mark, the licensee should be able to exercise those rights independently of whether the license is recorded.

19.03 The question of the entitlement of a licensee to join infringement proceedings initiated by the holder and to obtain damages is distinct from the question whether a licensee is allowed to bring in his own name infringement proceedings concerning the licensed mark. The latter case is not dealt with by the Treaty. Therefore, Contracting Parties would be allowed to require the recordal of a license as a condition for the licensee to bring a legal action in its own name concerning the mark which is the subject of the license. Under paragraph (2), Contracting Parties are free to provide that a non-recorded licensee has the right to obtain damages only where it had joined infringement proceedings initiated by the holder. However, Contracting Parties are equally free to adopt a more liberal approach, such as exists where the applicable law does not provide for the recordal of a license at all.

19.04 *Paragraph (3)*. Under this paragraph, the recording of a license agreement cannot constitute a condition for a finding in proceedings relating to the acquisition, maintenance and enforcement of marks, that a mark was used by a licensee on behalf of the holder. The words "use of a mark by a licensee" mean that Contracting Parties may require that, for the purposes of the paragraph under consideration, use of the mark was made under a license agreement.

*Notes on Article 20  
(Indication of the License)*

20.01 *Article 20* concerns specific indications relating to trademark licenses which may be required, under trademark law, under general labeling law or under advertising law, to appear on products or packaging or to be given in connection with the providing of services or in advertising for such goods or services. It is not the intention of this article to regulate general questions of product (or service) information required by labeling, advertising or consumer protection laws. Consequently, national laws and regulations requiring that certain indications relating, for example, to the safety of a product, its composition, its correct use, etc., must appear on its packaging are outside the scope of this article.

20.02 Article 20 leaves it to the law of a Contracting Party to prescribe whether or not goods which are commercialized under a licensed mark, or their packaging, must bear an indication of the fact that the mark is used under a license contract, or whether or not such an indication has to be given in connection with the providing of services or in advertising for such goods or services. However, where such indication is required by the applicable law, non-compliance with that obligation should not entail the invalidation of the registration of the mark in whole or in part. The continued existence of the registration should not depend on compliance with requirements concerning labeling or advertising, irrespective of whether they are contained in trademark laws or in other laws such as laws on labeling or advertising. In particular (and this is the effect of the reference to Article 19(3) which appears at the end of Article 20), Contracting Parties are not allowed to cancel the registration of a mark because the only use of that mark was used by a licensee who did not mention the license on the goods, or their packaging, or in connection with the providing of services or in advertising for the goods or services, for which the mark was used, even if a requirement to that effect

existed in that Contracting Party. The underlying rationale is that the invalidation of the registration of a licensed mark is too severe a sanction for non-compliance with a labeling or advertising requirement and should therefore not be allowed. Furthermore, non-compliance with labeling or advertising provisions should not lessen the possibilities to enforce the rights attached to a licensed mark. This means that a missing or defective indication regarding the license cannot constitute an argument in favor of the defending party in infringement proceedings, even if such indication is mandatory under the applicable law. The result of Article 20 is that no sanction for non-compliance with a labeling or advertising requirement, even if that requirement concerns the indication of the existence of a license, may affect trademark rights.

*Notes on Article 21*  
*(Observations in Case of Intended Refusal)*

21.01 *Article 21.* If an application under Article 3 or a request under Articles 7, 10 to 14, 17 and 18 is to be refused or rejected by the Office, the Office has to give the applicant, holder or other interested person who filed the application, an opportunity to make observations on the intended refusal. The notion of “refusal” includes the cases where those applications or requests are deemed withdrawn, abandoned or not to have been filed. It is to be noted that, where an application did not comply with one of the filing date requirements as provided for in Article 5 and an invitation was issued under Rule 5, the Office of a Contracting Party can treat the application as if it had not been filed without having to issue a second invitation to make observations if the applicant had not complied with the first invitation.

21.02 Otherwise, the possibility to make observations should be given to the applicant or holder in all cases, even if the refusal is based on non-payment or insufficient payment of fees or on the late presentation of the request for renewal. However, the Office shall not be obliged to give a requesting party an opportunity to make observations, where the requesting party has already had an opportunity to fully present its case.

*Notes on Article 22*  
*(Regulations)*

22.01 *Paragraph (3).* This paragraph establishes an exception to the general provision in paragraph (2) regarding the number of votes required to amend the Regulations. In this respect, it may be decided in the future to establish rules in the Regulations that can be amended by unanimity only. At the present stage, no such provisions have yet been decided.

*Notes on Article 23*  
*(Assembly)*

23.01 *Paragraph (1)(a).* This provision establishes an Assembly of Contracting Parties. In accordance with Article 1(xiii), the term “Contracting Party” means any State or intergovernmental organization party to the Treaty.

23.02 *Paragraph (2)(i)*. Under this provision the Assembly may, for example, establish recommendations concerning the amendment of any Rules contained in the Regulations or the future revision of the Treaty by a Diplomatic Conference.

23.03 *Paragraph (4)(b)(ii)*. The question of whether an intergovernmental organization or its Member States should participate in a vote at the Assembly is a matter to be decided between that organization and those States. However, subparagraph (b)(ii) makes it clear that an intergovernmental organization would not have a vote in the Assembly that is additional to the votes of that organization’s Member States bound by the Treaty. The third sentence of this item ensures that two intergovernmental organizations with one or more States in common may not both participate in the same vote in place of their Member States.

*Notes on Article 24*  
*(International Bureau)*

24.01 This article is a standard provision in WIPO treaties.

*Notes on Article 25*  
*(Revision and Amendment)*

25.01 *Paragraph (2)*. The only articles that may be amended by the Assembly are Articles 23 and 24, which deal with the Assembly and the International Bureau, respectively. This provision is not understood as limiting the powers of the Diplomatic Conference, under paragraph (1), to revise the entire Treaty, including Articles 23 and 24.

*Notes on Article 26*  
*(Becoming Party to the Treaty)*

26.01 *Paragraph (1)(ii)*. Intergovernmental organizations covered by this provision are, for instance, the “African Regional Intellectual Property Organization” (ARIPO), the “African Intellectual Property Organization” (OAPI) and the European Community (EC).

26.02 *Paragraph (1)(iv)*. This provision covers, for example, the member States of OAPI.

26.03 *Paragraph (1)(v)*. This provision would apply, for example, to a Benelux State.

26.04 *Paragraph (3)(iv)*. The effect of this provision is that a State party to an intergovernmental organization under paragraph (1)(iv) would become bound by the Treaty, at the earliest three months after the accession to this Treaty by that organization.



*Notes on Article 27*  
*(Application of the TLT 1994 and This Treaty)*

27.01 *Article 27* spells out general principles of public international law relating to the application of two successive treaties on the same subject-matter, i.e., the TLT 1994 and the present Treaty.

27.02 *Paragraph (1)* determines that, in cases where Contracting Parties are bound by the TLT 1994 and the present Treaty, the latter will apply to their mutual relations (*lex posteriori derogat priori*).

27.03 *Paragraph (2)* determines that relations between Contracting Parties to the revised TLT that are also Parties to the TLT 1994 and Contracting Parties to the TLT 1994 that are not parties to the revised TLT will be governed by the treaty which is common to both, i.e., the TLT 1994.

*Notes on Article 28*  
*(Entry into Force;*  
*Effective Date of Ratifications and Accessions)*

28.01 *Paragraphs (1) and (2)*. The Treaty does not come into force even if five States or intergovernmental organizations covered by Article 26(1) have deposited their instruments of accession or ratification unless the deposit has an effective date in accordance with Article 26(3). When the States are bound by a regional intergovernmental organization their accessions or ratifications are taken into consideration only as of the date on which the intergovernmental organization by which they are bound has itself deposited its instrument of accession or ratification. For example, if five member States of OAPI deposit their instruments of accession or ratification, the entry into force of the Treaty will depend on whether OAPI itself deposits its instrument of accession or ratification under Article 26(3)(ii).

28.02 It is to be noted that an intergovernmental organization's instrument of accession or ratification is effective only once all its member States are members of the World Intellectual Property Organization (WIPO).

*Notes on Article 29*  
*(Reservations)*

29.01 *Paragraph (1)* allows making a reservation with respect to associated marks, defensive marks and derivative marks. These special kinds of marks, without such reservation, would be governed by the Treaty and the Regulations. The reason for such a reservation is that the said special kinds of marks can be governed by special provisions of the laws of the Contracting Parties, in particular, as regards the content of applications and the division, transfer and renewal of applications or registrations, which are not compatible with the Treaty and the Regulations.

29.02 *Paragraph (2)* allows any State or intergovernmental organization to make a reservation to the general principle contained in Article 19(2) if its law prohibits a non-recorded licensee from joining infringement proceedings initiated by the holder and from recovering damages.

## II. NOTES ON THE REGULATIONS UNDER THE REVISED TRADEMARK LAW TREATY

### *Notes on Rule 2 (Manner of Indicating Names and Addresses)*

R2.01 *Paragraph (1)(a)*. The words “any Contracting Party may require,” which appear in the introductory phrase of this paragraph indicate that any Contracting Party is free to require fewer indications or elements than those mentioned in this Rule.

R2.02 It is left to the law of the Contracting Party to decide whether the family name or principal name has to precede or follow the given or secondary name.

R2.03 *Paragraph (1)(b)*. In order to facilitate the administrative procedure before the Office, a firm or partnership needs to indicate its name only in the manner in which such name is customarily used.

R2.04 *Paragraph (2)(b)*. This provision does not intend to regulate the question of who has the right to be an applicant. Therefore, as regards applicants, it only applies where the law of a Contracting Party allows applications to be filed by several applicants.

R2.05 *Paragraph (2)(c)*. The indication of a telephone number, of a telefacsimile number or an e-mail address is not mandatory. It is, however, to the applicant’s advantage to allow it to provide such indications so that the Office can establish contact with it through the most efficient means of communication.

R2.06 *Paragraph (3)*. While this provision allows Contracting Parties to require the indication of a specific identifier for a party before the Office, it prevents such Contracting Parties from refusing a communication which does not comply with such requirement, except for applications filed in electronic form.

### *Notes on Rule 3 (Details Concerning the Application)*

R3.01 *Paragraph (1)*. This provision applies only where a Contracting Party provides for the registration and publication of the mark in the standard characters used by the Office, and where the mark consists of a word, a letter or a numeral, or any combination thereof, which is not depicted in a special form.

R3.02 *Paragraph (2)*. The indication of the color or colors claimed may be in words or by reference to a recognized color code, it being understood that applicants are not obliged to provide the indication of an internationally recognized color code.

R3.03 *Paragraph (3)*. The number of reproductions which may be required includes the reproduction which is contained in the application. Thus if, under subparagraph (a)(ii), only one reproduction may be required and the application contains the reproduction of the mark, no additional reproduction may be required; if, under subparagraph (a)(i), five reproductions may be required and the application contains the reproduction of the mark, four additional reproductions may be required.

R3.04 *Subparagraph (a)* deals with the case where the mark does not contain a statement to the effect that color is claimed. In the case where the applicant does not wish the mark to be registered and published in the standard characters used by the Office of the Contracting Party concerned, up to five reproductions (in black and white) may be required (item (i)); otherwise, only one reproduction in black and white may be required (item (ii)).

R3.05 *Subparagraph (b)* deals with the case where the application contains a statement to the effect that the applicant claims colors. A maximum of 10 reproductions (five in color and five in black and white) may be required.

R3.06 *Paragraph (3)* does not deal with the questions of the size and quality of the reproductions. As regards the quality, see Note 3.09, last sentence, under Article 3(1)(a)(ix).

R3.07 *Paragraph (4)(a)*. The words "shall consist" make it clear that the applicant cannot file with the Office a specimen of the three-dimensional mark in lieu of two-dimensional reproductions of that mark. However, any Contracting Party is free to accept that the applicant, in addition to two-dimensional reproductions, also furnish a specimen. Where a Contracting Party allows the transmittal of communications by electronic means, other techniques to satisfy the requirements concerning the reproduction may be available.

R3.08 *Paragraph (4)(b)* enables the applicant to furnish, for the purposes of reproduction of a three-dimensional mark, one single view or several different views of the mark. This provision, however, does not impose any obligation on a Contracting Party as regards the number of views it should publish. A Contracting Party is therefore free to provide that only one view of the three-dimensional mark will be published and, in such a case, it may require that, where the applicant furnishes several different views, he indicates the view which the Office should publish. If the applicant does not give such an indication, the Office may invite him to do so, or select *ex officio* one of the views.

R3.09 *Paragraph (4)(c) and (d)*. These provisions deal with the cases where the Office of a Contracting Party considers that the particulars of a three-dimensional mark are not sufficiently shown by the reproductions furnished.

R3.10 *Paragraph (4)(e)*. This provision makes it clear that as regards color, in the case of three-dimensional marks, the number of reproductions of each view is the same as for two-dimensional marks and that the reference to standard characters does not apply to three-dimensional marks.

R3.11 *Paragraph (5)*. In the case of hologram marks, motion marks, color marks and position marks, the number and the form of the required reproductions is left to the applicable law.

R3.12 *Paragraph (6)*. Equally, in the case of a non-visible sign, Contracting Parties are free to determine the form and other details concerning the representation of the mark.

R3.13 *Paragraph (9)*. A Contracting Party may subject the granting of extensions of the minimum time limit of six months to various conditions, for example, the possible payment of fees or the submission of documents or indications justifying the reason why actual use has not commenced.

*Notes on Rule 4  
(Details Concerning Representation and Address for Service)*

R4.01 *Paragraph (1)*. In the event that other addresses have been indicated to the Office, only the address of the representative will be considered as an address for service. If that address is not on the territory of the Contracting Party, the Contracting Party may, in accordance with Article 4(1)(a)(ii), require that the address provided by the representative be on a territory prescribed by it.

R4.02 *Paragraph (3)*. The minimum time limit of two months that must be accorded to persons residing abroad takes into account the fact that postal transmittal usually takes more time between two countries than inside one country. The time limits of one month and two months start from the date on which, under Article 4(3)(d), a communication is submitted to the Office of a Contracting Party without the required power of attorney. Neither the Treaty nor the Regulations provide that such Office is obliged to send a notification requesting the furnishing of a missing power of attorney.

*Notes on Rule 5  
(Details Concerning the Filing Date)*

R5.01 *Paragraph (1)*. The longer time limit for applicants residing abroad is considered justified not only because more time is required for postal transmittal from abroad than for transmittal inside the country but also because a local representative should be given enough time to communicate with the applicant residing abroad. Where the applicant has a representative, the invitation referred to in paragraph (1) will be sent to that representative instead of, or in addition to, the applicant.

R5.02. The final sentence of paragraph (1) is intended to make it clear that a failure on the part of the Office to send the required invitation does not exempt the applicant from its obligation to comply with any of the applicable requirements of Article 5 of the Treaty. The reasons for such a failure can be, for example, the impossibility for the Office to contact the applicant or a general strike. In any case, the consequence will be that, until such requirements are complied with, the application will not be accorded a filing date.

R5.03 *Paragraph (2)*. The expression "shall be treated as if it had not been filed" should be understood as covering also the case where a Contracting Party considers the application withdrawn or abandoned.

R5.04 The last sentence of paragraph (2) does not oblige any Contracting Party to refund the fees paid in connection with the filing of the application.

*Notes on Rule 6*  
*(Details Concerning Communications)*

R6.01 *Paragraph (1)*. This paragraph applies to the signature of any natural person on a communication on paper, including the case where a natural person signs on behalf of a legal entity. Item (ii) applies, in particular, where a person signs on behalf of a legal entity.

R6.02 *Paragraph (4)*. This paragraph applies to signatures on paper communications which were transmitted by electronic means of transmittal, such as communications filed by telefacsimile, or paper communications which were scanned and transmitted, for example, as e-mail attachments.

R6.03 *Paragraph (5)*. Contracting Parties that provide for the transmission of paper documents by electronic means of transmittal, such as telefacsimile or electronic image files, must accept under Rule 6(4) the signature that appears on a communication transmitted in such manner. However, they can require that the original of any such document be filed with the Office as prescribed in paragraph (5).

R6.04 *Paragraph (6)*. In order to avoid any confusion between signatures on paper communications, for which Contracting Parties cannot require any form of certification or authentication, except in cases concerning the surrender of a registration, and systems for protecting the integrity and confidentiality of electronic communications, often referred to as “electronic signatures”, the Treaty and Regulations do not use the latter term. Instead, the expression “authentication of communications in electronic form” is used. It envisages all systems that may be used by Contracting Parties in order to secure electronic communications between an applicant, holder or other interested person and an Office. It is to be noted that, under this provision, Contracting Parties have complete freedom in prescribing the rules to be followed for this type of communication. However, to the extent that the subject is dealt with in the Regulations, future harmonization in that area may be reached through a decision by the Assembly.

*Notes on Rule 8*  
*(Details Concerning Duration and Renewal)*

R8.01 Rule 8 builds on the provisions contained in Article 5*bis* of the Paris Convention, relating to the obligation to grant a period of grace of not less than six months for the payment of fees to maintain an industrial property right, and to the possibility of requiring the payment of a surcharge in such case.

R8.02. Rule 8 is more detailed than Article 5*bis* of the Paris Convention, since it provides for a grace period not only to pay the prescribed fees for the renewal of the registration of a mark, but also to file the request for renewal before the Office. In this respect, a Contracting Party would be obliged to accept a request for renewal of a registration even if that request is

filed after the date on which the renewal is due, namely the date on which the registration expires. The Contracting Party may fix a time limit (grace period) for this, but such limit may not be shorter than six months after the date on which the renewal is due. The question of the status of the registration during the grace period, and the manner in which intervening rights possibly acquired during that period will be recognized, are left to the laws of the Contracting Parties.

R8.03 Rule 8 also establishes a minimum time period during which the request for renewal may be filed *before* the date on which renewal is due. This aims at ensuring that holders of marks will be able to file their requests for renewal in good time before the expiration of the relevant registrations, thus ensuring a seamless continuation of their registered rights.

R8.04 If the law of a Contracting Party provides that the Office must inform the holder when his registration is due for renewal, the consequences of the failure to inform the holder may be stipulated by the applicable law.

*Notes on Rule 9*  
*(Relief Measures in Case of Failure to Comply with Time Limits)*

R9.01 *Paragraph (2)*. In the case of continued processing, the omitted act must be completed within the time period available for filing a request for continued processing (i.e., not less than two months from the date of expiry of the time limit concerned) or, in accordance with the law of a Contracting Party, together with the request.

R9.02 *Paragraph (3)*. Unlike a request for the extension of a time limit or for continued processing, a Contracting Party may require that the request for reinstatement of rights state the reasons for the failure to comply with a time limit. A Contracting Party is free to require that all of the requirements be complied with within the time limit referred to in paragraph (3)(c). In this respect, the Contracting Party may provide that such requirements be complied with at the time the request is filed, or it may allow the applicant, holder or third party to comply with the requirements after having filed the request but within a specified time limit. Paragraph (3)(c) recognizes a Contracting Party's freedom to establish an absolute time limit to request reinstatement of rights. Such time limit may not, however, be shorter than six months counted from the date of expiration of the time limit initially missed.

R9.03 *Paragraph (4)*. This provision lists procedures in respect of which a Contracting Party is not obliged to provide for the extension of a time limit, continued processing or the reinstatement of rights under Article 14, although it is free to do so.

R9.04 *Item (i)*. A Contracting Party is not obliged to grant more than one instance of relief under Article 14, where a request for relief was made after the expiry of the time limit concerned, although it is free to do so.

R9.05 *Item (ii)*. This item is intended to prevent an applicant or holder from obtaining what would be, in effect, double relief in respect of the procedure concerned.

R9.06 *Item (iii)*. Although a Contracting Party is not obliged to provide for the extension of, or continued processing in respect of, a time limit fixed for the payment of renewal fees, it is still obliged to provide a period of grace for the payment of such fees under Article 5bis(1) of the Paris Convention, and for the filing of a request for renewal and the payment of renewal fees under Article 13(1)(c) and Rule 8 of the Treaty.

R9.07 *Item (iv)*. To the extent that procedures before a board of appeal or other review body constituted in the framework of an Office are considered under the law of a Contracting Party as judicial procedures, that Contracting Party is not obliged to apply the Treaty to such procedures (see Article 1(viii) and Note 1.06). But even where, due to the legal nature of such procedures as determined by the applicable law, the Treaty would apply, a Contracting Party is not obliged to provide for any of the relief measures under Article 14. Moreover, this recognizes that legal certainty in appeal proceedings generally requires that the time limits stipulated by statute should not be subject to extension.

R9.08 *Item (v)*. Trademark opposition proceedings generally include one or more submissions by the litigating parties which, in certain cases, might require a succession of reliefs. While it seems appropriate, for reasons of legal security, to exclude actions in relation to *inter partes* proceedings from the obligation to provide relief measures under the TLT, Contracting Parties would be free to provide in their laws for appropriate relief in circumstances where the competing interests of third parties, as well as those interests of others who are not parties to the proceedings, are properly taken into account.

R9.09 *Items (vi) to (viii)*. For the purpose of legal certainty and to preserve third party interests, the procedures referred to in items (vi) to (viii) may be excluded from the application of relief measures. Under item (vii), a Contracting Party may exclude the application of relief measures in respect of the filing of a declaration which may have the effect of establishing a new filing date for a pending application. This may apply where the law of a Contracting Party provides for a system by which the date of an amendment of a pending application, becomes the filing date of a new application based on that amendment. In such a case, the filing date should be fixed as early as possible to preserve the rights of third parties. Such system exists, for example, in the law of Japan.

#### *Notes on Rule 10*

##### *(Requirements Concerning the Request for Recordal of a License or for Amendment or Cancellation of the Recordal of a License)*

R10.01 *Paragraph (1)(a)*. This paragraph sets out the elements which an Office may require to be presented in a request for recordal of a license. Because of Article 17(4), the list of those elements constitutes a maximum. An Office is free to require only some of those elements, but it may not require different or additional elements.

R10.02 *Items (i) to (vi)*. As regards the manner of indicating names and addresses, Rule 2 (*Manner of Indicating Names and Addresses*) would apply.



R10.03 *Items (ii), (iii), (v) and (vi)*. Article 4(2) would apply to these items, because recordal of a license is a “procedure before the Office”. Thus, under that article, representation or an address for service may be required.

R10.04 *Item (vii)*. Since Article 3 of the Paris Convention provides that nationals of countries not members of the Paris Union are entitled to national treatment if they have a real and effective industrial or commercial establishment or are domiciled in one of the Paris Union countries, this item allows those indications to be required.

R10.05 *Item (viii)* allows a Contracting Party to require that, where the holder, the licensee, or both parties are legal entities, the legal nature of the entity be specified. This provision mirrors Article 3(1)(a)(iv) which allows a similar requirement with regard to trademark applications.

R10.06 *Item (xi)*. Definitions of “exclusive license”, “non-exclusive license” and “sole license” are contained in Rule 1(iii) to (v). If the law of the Contracting Party does not provide for one or more such indications, information corresponding to the item under consideration would not have to be furnished.

R10.07 *Item (xii)* allows a Contracting Party to require an indication that the license concerns only part of the territory for which the registration has effect, together with an explicit indication of that territory.

R10.08 *Item (xiii)*. Contracting Parties may require that the request indicate the time period for which the license is granted, or that it is granted for an unlimited period of time. If the license is granted for a limited period of time but renewed or extended automatically, the license would be considered to have been granted for a limited period of time. It would be the responsibility of the parties to inform the Office of any subsequent renewal or extension of the license.

R10.09 *Paragraph (2)(a)*. A request for recordal of a license is a communication and, therefore, Article 8 and the relevant rule apply. The question of entitlement to file a request for recordal of a license is not dealt with. However, a Contracting Party may require certain documentary evidence to be provided by the requesting party as a condition to record the license. At the option of the requesting party (who will frequently be the representative of the licensor or of the licensee) the request for recordal has to be accompanied, if a Contracting Party so requires, by the documents specified in items (i) or (ii).

R10.10 *Paragraph (2)(b)*. Where a co-holder grants a license of his share of the registration, the applicable law may require the consent of any other co-holder. In this respect, a comparison may be drawn with Article 11(1)(d) of the Treaty. A co-holder who is not party to the license contract could express his consent to the recordal of the license by signing the uncertified statement of license provided for in Rule 10(2)(a)(ii).

R10.11 *Paragraphs (3) and (4)*. The question of entitlement to present a request for the amendment or cancellation of the recordal of a license is not dealt with. These paragraphs, however, allow a Contracting Party to require that the requesting party submit, at its choice, the documentary evidence in paragraphs (a) and (b). The wording of paragraphs (3)(a)(i) and (4)(i) has been kept deliberately broad, because the reasons for requesting the amendment or cancellation of a recorded license may be manifold.

R10.12 *Paragraph (3)(b)*. This provision is similar to Rule 10(2)(b). (See Note R10.10).

### III. NOTE ON THE MODEL INTERNATIONAL FORMS

1.01 The Model International Forms correspond to the maximum requirements that a Contracting Party may provide for under the Treaty and the Regulations in respect of a particular procedure or document. The obligation for an Office to accept a communication, the content of which corresponds to the Model International Form does not affect any requirements established by that Office concerning the means of transmittal of communications, language of communications, signature of communications on paper or communications filed in electronic form or by electronic means of transmittal, in accordance with Article 8(1) to (4). On the other hand, an Office may prepare its own “Individualized International Forms” for use by applicants, provided such forms do not require mandatory elements that would be additional to the elements referred to in the corresponding Model International Forms and would therefore be contrary to the Treaty or the Regulations. This point was clarified in the Agreed Statement No. 5, adopted at the Diplomatic Conference for the Conclusion of the TLT 1994.

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TLT/R/DC/6

March 14, 2006 (Original: English)

### ARTICLE 13

#### *Proposal by the Delegation of Japan*

The Delegation of Japan proposes to add the following text to Article 13:

“(6) [*Substantive Examination on the Occasion of Renewal*] Any State or intergovernmental organization may declare that, notwithstanding paragraph (4), the Office may, on the occasion of the first renewal of a registration covering services, examine such registration as to substance, provided that such examination shall be limited to the elimination of multiple registrations based on applications filed during a period of six months following the entry into force of the law of such State or organization that introduced, before the entry into force of this Treaty, the possibility of registering service marks.”

Comments: The Basic Proposal for a Revised Trademark Law Treaty (TLT) does not include a provision corresponding to Article 22(6) of the TLT 1994. That provision considered the particular situation of Japan regarding the registration of service marks. Japan adopted a service mark registration system in April 1994. That system allowed the registrations of service marks for which applications had been filed within six months counted from the date of implementation of the system, regardless of whether the applications concerned were in conflict with each other. This practice resulted in redundant registrations.

In order to solve the problem of multiple registrations, multiply registered service marks must undergo substantive examination only at the time of first renewal, which is carried out 10 years after the registration date. Specifically, the examiner should consider whether renewal is requested for any other multiply registered service mark, and if so, whether or not the service mark in question is liable to cause confusion as to the owner of the mark. If the examiner decides that a multiple service mark held by another person has become more famous through use over the past ten years since the marks were registered, he should not allow the renewal of the service mark concerned.

Article 22(6) of the TLT 1994 allows Japan to carry out substantive examination for multiply registered service marks at the time of first renewal, despite the prohibition contained in Article 13(6) of the TLT 1994. Japan considers it necessary to include Article 22(6) in the Revised TLT, because its Office needs to eliminate multiple registrations.

For reference purposes, Japan notes that the final multiple registrations were made at the end of the year 2000. An appeal against the examiner’s decision of refusal or a lawsuit may have been filed regarding the justifiability of the registration. Therefore, the transitional provision contained in Article 22(6) of the TLT 1994 should be included in the Revised TLT until the year 2011.

The proposed draft text is similar to that of Article 22(6) of the TLT 1994, except for a change in the reference to “Article 13(4)” instead of “Article 13(6).”

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TLT/R/DC/7

March 16, 2006 (Original: French)

## ARTICLE 6

*Proposal by the Delegation of the African Intellectual Property Organization (OAPI)*

### First Version

“Where goods and/or services belonging to several classes of the Nice Classification have been included in one application, such an application may, according to the legislation of the Contracting Party, result in one and the same registration.”

Second Version

“Where goods and/or services belonging to several classes of the Nice Classification have been included in one and the same application, such an application shall result in one and the same registration.”

“A Contracting Party may not apply the obligation listed in the above subparagraph if, prior to its accession to this Treaty, it made one registration for the classes of products and one registration for the classes of services.”

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TLT/R/DC/8

March 16, 2006 (Original: French)

## ARTICLE 13

*Proposal by the Delegation of the African Intellectual Property Organization (OAPI)*

The Delegation of the African Intellectual Property Organization (OAPI) proposes the following amendment:

“Any Contracting Party may require that the request for renewal be presented, and the corresponding fee referred to in subparagraph (b) be paid, to the Office within the period fixed by the law of the Contracting Party.”

The amendment consists in deleting the part of the sentence “... subject to the minimum periods prescribed in the Regulations.” The Regulations should of course be amended accordingly.

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TLT/R/DC/9

March 16, 2006 (Original: English)

## RULE 9

*Proposal by the Delegation of New Zealand*

The Delegation of New Zealand proposes the following amendment to Rule 9:

Paragraphs (1)(i), (2)(i) and (3)(i) provide that for each type of relief measure a Contracting Party may require the request to contain an identification of the requesting party and the time limit concerned. The question arises as to whether a Contracting Party may require (or perhaps needs) the request to indicate the address of the requesting party, the relevant application or registration number to which the time limit concerned relates to and/or the name and address of any representative.

As a comparison, it is noted that requirements in relation to other forms of requests, such as correction of a mistake, change of address, change of ownership and recordal of a licence, all provide for the Contracting Party to require the requesting party to identify the application or registration number in question, the name and address of the requesting party and the name and address of any representative.

The New Zealand delegation therefore proposes that paragraphs (1)(i), (2)(i) and (3)(i) each be amended to provide that a Contracting Party may require the request to:

“contain the name and the address of the requesting party, the relevant application or registration number concerned, the time limit concerned and the name and address of any representative.”

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TLT/R/DC/10

March 16, 2006 (Original: Chinese)

#### ARTICLE 4

##### *Proposal by the Delegation of China*

It is proposed that Article 4(1)(a) be amended as follows:

“(1) [*Representatives Admitted to Practice*]

“(a) Any Contracting Party may require that a representative appointed for the purposes of any procedure before the Office

“(i) be a representative admitted to practice before the Office;

“(ii) have the right, under the applicable law, to practice before the Office in respect of applications and registrations;

“(iii) provide, as his address, an address on a territory prescribed by the Contracting Party.”

The amendment concerns adding a new subparagraph (i) and renumbering the existing two subparagraphs accordingly. This new subparagraph is added in order to make sure that the content of this paragraph is consistent with its title. A trademark representative must be one who is “admitted to practice before the Office”. It would be difficult for representatives not qualified as being “admitted to practice before the Office” to guarantee the interests of the applicants who appoint them. This is of vital importance to both national and international trademark applicants. In this respect, the Basic Proposal has weakened the original provision in the same article of TLT 1994, which is very clear about this and has an important role to play both in ensuring the high standard of practice before the Office as well as the quality of trademark representation, and in regulating the behavior of trademark representation.

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TLT/R/DC/11

March 16, 2006 (Original: English)

### ARTICLE 3

#### *Proposal by the Delegation of Singapore*

The Delegation of Singapore proposes to replace Article 3(1)(a)(x) with the following text:

“where applicable, one or more of the following statements, as prescribed in the Regulations, indicating

the type of mark as well as any specific requirements applicable to that type of mark;

that the applicant wishes that the mark be registered and published in the standard characters used by the Office; and

that the applicant wishes to claim color as a distinctive feature of the mark.”

Comments: the proposed text is intended to clarify that the elements or indications contained in Article 3(1)(a)(x) are separate elements or indications and that a Contracting Party has the freedom to choose none, one or more of the elements or indications.

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TLT/R/DC/12

March 16, 2006 (Original: Russian)

## ARTICLE 8

*Proposal by the Delegation of Ukraine*

The Delegation of Ukraine proposes to amend Article 8(2)(c) as follows:

“(c) Where a Contracting Party does not require a communication to be in a language admitted by its Office, the Office may require that a translation of that communication...”

The proposal is related to the fact that it complies with a consistent approach to the wording of the Treaty, and also to the fact that the language of the communication may be prescribed only by the legislation of the Contracting Party, and not by the Office.

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TLT/R/DC/13

March 16, 2006 (Original: English)

## RULE 9

*Proposal by the Delegation of Japan*

The Delegation of Japan proposes to amend Rule 9(4)(i) [*Exceptions Under Article 14(3)*] as follows:

“(i) for which a relief measure has already been granted under Article 14.”

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TLT/R/DC/14

March 17, 2006 (Original: English)

## FIRST REPORT OF THE CREDENTIALS COMMITTEE

*prepared by the Secretariat*

1. The Credentials Committee (hereinafter referred to as "the Committee"), established on March 14, 2006, by the Diplomatic Conference for the Adoption of a Revised Trademark Law Treaty, met on March 16, 2006.
2. The Delegations of the following States, elected members of the Committee by the Diplomatic Conference, attended the meeting: Australia, China, Ghana, Honduras, Iran (Islamic Republic of), Kyrgyzstan and South Africa (7).
3. The President of the Committee, elected by the Diplomatic Conference, was Mr. Hekmatollah Ghorbani (Iran (Islamic Republic of)). The Vice-Presidents, elected by the Diplomatic Conference, were Mrs. Grace Issahaque (Ghana), and Mr. Francisco Javier Mejía (Honduras).
4. In accordance with Rule 9(1) of the Rules of Procedure adopted by the Conference on March 14, 2006 (document TLT/R/DC/2; hereinafter referred to as "the Rules of Procedure"), the Committee examined the credentials, full powers, letters or other documents of appointment presented for the purposes of Rules 6 and 7 by delegations of States members of the World Intellectual Property Organization (hereinafter referred to as "WIPO"), participating in the Conference in accordance with Rule 2(1)(i) of the Rules of Procedure (hereinafter referred to as "Ordinary Member Delegations"), by the delegations of the African Intellectual Property Organization, the African Regional Intellectual Property Organization and the European Community, participating in the Conference in accordance with Rule 2(1)(ii) of the Rules of Procedure (hereinafter referred to as the "Special Member Delegations"), as well as by the representatives of intergovernmental and non-governmental organizations, participating in the Conference in accordance with Rule 2(1)(iv) of the Rules of Procedure (hereinafter referred to as "Observer Organizations").
5. On the basis of the information provided by the Secretariat as to the practice prevailing in other diplomatic conferences and in particular in diplomatic conferences convened by WIPO, the Committee decided to recommend to the Conference, meeting in Plenary, that the following criteria should be applied by the Committee in its examination of, and should govern the decision of the Conference on, the credentials, full powers, letters or other documents presented for the purposes of Rules 6 and 7 of the Rules of Procedure:
  - (i) as far as any State is concerned, its delegation's credentials and full powers should be accepted if they were signed by that State's Head of State, Head of Government or Minister for Foreign Affairs; credentials, but not full powers, should be accepted if they were contained in a *note verbale* or letter of that State's Permanent Representative in Geneva or in a *note verbale* of that State's Ministry of Foreign



Affairs, its Permanent Mission in Geneva or Embassy in Singapore and should not otherwise be accepted; in particular, a communication emanating from a Minister other than the Minister for Foreign Affairs, should not be treated as credentials;

(ii) as far as any Organization is concerned, its representative's letter or other document of appointment should be accepted if it was signed by the Head (Director General, Secretary General or President) or Deputy Head or official responsible for external affairs of the Organization;

(iii) facsimile, electronic communications or hard copies of originals should be accepted if, as to their source, the requirements stated in points (i) and (ii) were fulfilled.

6. Pending a final decision by the Conference, meeting in Plenary, on the said criteria, the Committee decided to apply those criteria to the documents received by it.

7. Accordingly, the Committee found in order

(a) as far as *Ordinary Member Delegations* are concerned,

(i) the *credentials* and *full powers* (that is, *credentials* for participating in the Conference and signing the final act as well as *full powers* to sign the treaty to be adopted by the Diplomatic Conference) of the delegations of the following 37 States:

Austria	Italy
Belgium	Kenya
Benin	Kyrgyzstan
Bosnia and Herzegovina	Lithuania
Burkina Faso	Luxembourg
Congo	Madagascar
Croatia	Mali
Czech Republic	Mozambique
Democratic People's Republic of Korea	Portugal
Democratic Republic of the Congo	Republic of Moldova
Denmark	Romania
Dominican Republic	Senegal
Estonia	Serbia and Montenegro
Ghana	Slovenia
Guinea	Suriname
Haiti	Tajikistan
Hungary	The former Yugoslav Republic of Macedonia
Israel	United Kingdom
	Zambia

(ii) the *credentials* without *full powers* (that is, *credentials* for participating in the Conference and signing the final act only) of the delegations of the following 47 States:

Algeria	Greece
Argentina	Grenada
Armenia	Honduras
Australia	India
Azerbaijan	Indonesia
Bangladesh	Iran (Islamic Republic of)
Belarus	Iraq
Bulgaria	Ireland
Cameroon	Japan
China	Latvia
Colombia	Lesotho
Ecuador	Mauritania
El Salvador	Mauritius
Finland	Mexico
Georgia	Monaco
Morocco	Slovakia
Myanmar	South Africa
Netherlands	Switzerland
Nigeria	Syrian Arab Republic
Pakistan	Tunisia
Republic of Korea	Uruguay
Russian Federation	Uzbekistan
Seychelles	Zimbabwe
Singapore	

(b) as far as the *Special Member Delegations* are concerned, the *credentials* of the Delegations of: African Intellectual Property Organization (OAPI), African Regional Intellectual Property Organization (ARIPO), European Community (3).

(c) as far as the *Observer Organizations* are concerned, the *letters or documents of appointment* of representatives of the following Observer Organizations:

(i) *intergovernmental organizations*: Benelux Designs Office (BBDM), Benelux Trademark Office (BBM) (2).

(ii) *non-governmental organizations*: American Intellectual Property Law Association (AIPLA), Asian Patent Attorneys Association (APAA), Association of European Trademark Owners (MARQUES), China Trademark Association (CTA), Committee of National Institutes of Intellectual Property Attorneys (CNIPA), European Communities Trade Mark Association (ECTA), International Association for the Protection of Intellectual Property (AIPPI), International Chamber of Commerce (ICC), Innovation Business Club (Intelcom), International Federation of Industrial Property Attorneys (FICPI), International Trademark Association (INTA), Japan Patent Attorneys Association (JPAA), Japan Trademark Association (JTA) (13).

8. The Committee noted that, in accordance with established practice, a designation of representation implied, in principle, in the absence of any express reservation, the right of signature, and that it should be left to each delegation to interpret the scope of its credentials.

9. The Committee recommends to the Conference, meeting in Plenary, to accept the credentials and full powers of the delegations mentioned in paragraph (7)(a)(i) above, the credentials of the delegations mentioned in paragraph 7(a)(ii) and 7(b), above, and the letters or documents of appointment of the representatives of the organizations mentioned in paragraph 7(c), above.

10. The Committee expressed the wish that the Secretariat should bring Rule 6 ("Credentials and Full Powers"), 7 ("Letters of Appointment") and 10 ("Provisional Participation") of the Rules of Procedure to the attention of Member Delegations or Observer Delegations not having presented credentials or full powers and of the representatives of Observer Organizations not having presented letters or other documents of appointment.

11. The Committee decided that a report on its meeting should be prepared by the Secretariat and issued as its report, to be presented by the President of the Committee to the Conference, meeting in Plenary.

12. The Committee decided that it would re-convene to examine any further communications concerning Ordinary Member Delegations, Special Member Delegations, Observer Delegations, or Observer Organizations which might be received by the Secretariat after the close of its meeting.

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TLT/R/DC/15

March 16, 2006 (Original: English)

ARTICLES 1, 3(5), 4(3)(d), 5(2)(a), 8(1), 22(1)(a), 22(4), 25(2)(a),  
24(3)(a) AND 24(4)(c)

*Proposal by the Delegation of South Africa*

The Delegation of South Africa proposes the following amendments:

Article 1: arrange "Abbreviated Expressions" in alphabetical order, in accordance with standard treaty practice.

Article 3(5): add the following text at the beginning "Notwithstanding paragraph (4)". The following articles should be amended in similar fashion: 10(5), 11(4), 12(4), 13(3) and 17(5).

Article 4(3)(d): add “/herself” after “himself” at the beginning of the second line, and ensure that this approach is followed consistently throughout the text.

Article 5(2)(a): replace “paid” with “received”.

Article 8(1) [*Means of Transmittal and Form of Communications*]

“Any Contracting Party may accept communications in electronic form or any other form of communication, provided that communications in paper form shall always be accepted by Member States.”

Article 22(1)(a): amend to read as follows:

“The Regulations under this Treaty *shall form an integral part thereof and* provide rules concerning ...”

In Article 22(4): add the following text at the beginning “Notwithstanding subparagraph (1)(a)”.

In Article 25(2)(a): add the following text at the beginning “Notwithstanding paragraph (1)”.

In Articles 24(3)(a) and 24(4)(c): change “shall” to “may” where it appears in the text.

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TLT/R/DC/16

March 17, 2006 (Original: English)

#### NEW ARTICLE TO BE INSERTED IN THE REVISED TRADEMARK LAW TREATY

*Proposal by the Delegation of Benin on behalf of the  
Group of Least Developed Countries (LDCs)*

1. The Least Developed Countries (LDCs), recognized as such by the United Nations, shall undertake the implementation of this Treaty and its Regulations consistent with their national development needs, financial and trademark needs as well as after acquiring the necessary financial, administrative and institutional capabilities.
  2. Developed countries shall assist the LDCs in building up administrative and institutional capacity to progressively implement the Treaty.
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TLT/R/DC/17

March 17, 2006 (Original: English)

## ARTICLE 25

*Proposal by the Delegation of the United States of America*

The Delegation of the United States of America proposes the following amendment to Article 25(2).

“Article 23(2) may be amended by the Assembly in accordance with paragraph (2) of this Article. Proposals for amendment may be initiated by any Contracting Party or by the Director General. Such proposals shall be communicated by the Director General to the Contracting Parties at least six months in advance of their consideration by the Assembly.”

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TLT/R/DC/18

March 17, 2006 (Original: Russian)

## ARTICLE 25

*Proposal by the Delegation of Kyrgyzstan*

The Delegation of Kyrgyzstan proposes to amend paragraph (2)(a) as follows:

“(a) Notwithstanding paragraph (1), Article 24 may be amended by the Assembly...”.

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TLT/R/DC/19

March 17, 2006 (Original: English)

ARTICLES 5, 11 AND 13  
RULES 3 AND 10*Proposal by the Delegation of Iran (Islamic Republic of)*

The Delegation of Iran (Islamic Republic of) proposes the following amendments:

In Article 5(1)(a)(i), the words “or implicit” should be deleted.

In Article 11(1)(b), the words “at the option of the requesting party” should be deleted.

In Article 13(2), item (i) “any reproduction or other identification of the mark;” should be deleted or be optional.

In Rule 3(4)(b), the words “at the option of applicant” should be deleted.

In Rule 10(2)(a), (3)(a) and (4), the words “at the option of the requesting party” should be deleted.

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TLT/R/DC/20 Rev.  
March 20, 2006 (Original: English)

AGREED STATEMENT TO BE ADOPTED  
BY THE DIPLOMATIC CONFERENCE

*Proposal by the Delegation of Nigeria on Behalf of the African Group*

1. When Adopting the Revised Trademark Law Treaty, the Diplomatic Conference understood that the words “procedure before the Office” in Article I(viii) would not cover judicial procedures under the Contracting Party’s legislation.
2. With a view to facilitating the implementation of the above-mentioned Treaty in African (developing) countries and especially the Least Developed Countries (LDCs), the Diplomatic Conference requests the Assembly and the Contracting Parties to provide these countries with additional technical assistance to meet their obligations under the Treaty, even before its entry into force.
3. The LDCs, recognized as such by the United Nations, shall only be required to undertake the implementation of this Treaty in so far as they are able to, within the limits of their financial, technical and administrative resources.
4. The lack of technological requirements relevant to the implementation of the Treaty shall not prevent African (developing) countries and LDCs from benefiting from the potential advantages of the Treaty.
5. The Diplomatic Conference further urges the developed countries to provide technical and financial assistance to African (developing) countries and LDCs to build up their administrative and institutional capacities.

6. The Assembly, in the process of the development of this Treaty, shall address the concerns of the African (developing) countries and LDCs, with the view to enabling their Offices implement the Treaty.
  7. The Diplomatic Conference further requests the Assembly, once the Treaty has entered into force, to monitor and evaluate the progress and impact of the assistance given, at every ordinary session.
  8. In case of harmonization in trademarks, the technological capabilities, as well as intellectual property (IP) infrastructures of African (developing) countries and LDCs in registering the marks, shall be taken into account.
  9. The Diplomatic Conference further urges the World Intellectual Property Organization (WIPO) to take advantage of the Digital Solidarity Fund (DSF) to enable African (developing) countries and LDCs to modernize their information and communication technology (ICT) infrastructures in order to provide them with institutional and administrative capacities to implement the Treaty.
  10. The Diplomatic Conference also calls upon WIPO to provide legal and technical assistance to African (developing) countries and LDCs in the implementation of the Treaty.
  11. The Diplomatic Conference agreed that any dispute that may arise between two or more Contracting Parties with respect to the interpretation or the application of this Treaty shall be settled amicably through consultation and mediation under the auspices of the Director General. In the event of failure to reach a settlement, the Director General shall refer the dispute to the Assembly for determination.
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TLT/R/DC/21

March 20, 2006 (Original: English)

ARTICLES 1BIS, 23, 24 AND 25

*Proposal by the Delegation of Iran (Islamic Republic of)*

The Delegation of Iran (Islamic Republic of) proposes the following amendments:

*“Article Ibis  
Principles*

(1) This Treaty and its Regulations will simplify and facilitate the communication of offices of Member States in trademark and registration system.

(2) In the process of simplification, any kind of possible harmonization of the subjects of the Treaty and its Regulations in the case of any particular new types of marks and electronic filing, the developing countries, optionally, should be excluded through exceptions and limitations.

(3) For the efficient implementation of the Treaty and its Regulations as well as facilitating communication in the registration system, narrowing the digital gap between industrialized nations and developing countries is necessary.

(4) To encourage as many Member States as possible to engage the Treaty and its Regulations, efficient assistance of all kinds is necessary.”

Establishing item (v) in Article 23(2) as follows:

23(2)(v): “deal with matters concerning the response to the requirements of Article 1bis(3) and (4).”

Establishing paragraph (6) in Article 24 as follows:

“The International Bureau assesses and reports regularly to the Assembly in the implementation of Article 23(2)(v).”

Establishing a paragraph between Article 25(2)(b) and (c) as follows:

“Adoption of any amendment to the articles referred to in paragraph (a) shall require consensus of Member States. If it is not possible to attain consensus, it shall require fourth-fifths of the votes cast.”

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TLT/R/DC/22

March 20, 2006 (Original: English)

ARTICLES 23, 25 AND 28

*Proposal by the Delegation of Iran (Islamic Republic of)*

The Delegation of Iran (Islamic Republic of) proposes the following amendments:

Article 23(5)(a), “two-thirds” should be replaced by “three-fourths”.

Comment: to encourage as many Member States as possible to engage in the process.

Article 23(3)(a), the quorum should be “three-fourths” of Members States.



Comment: According to Article 28(2), if the Treaty and its Regulations are to enter into force with five States, then the decisions of the Assembly will be implemented with the decision of three countries for all Member States.

Article 23(5)(a), "two-thirds" should be replaced by "four-fifths".

Comment: for the same reason above.

Article 25(1)(b) should be changed as follows:

"(b) Adoption on any amendment to the articles referred to in subparagraph (a) shall require consensus of Member States. If it is not possible to attain consensus, it shall require four-fifths of the votes cast."

Comment: subparagraph (a) of Article 25(2) referring to the function of Article 25(1), namely the Revision of the Treaty by the Assembly. So, for such an important subject the consensus is necessary.

Article 28(2), "five States" should be replaced by "15 States".

Comment: with the current situation if the quorum in the Assembly is one-half of the members of the Assembly, the decisions of the Assembly will go into force (keeping in mind Article 28(2)) with the two and a half of Member States.

Article 25(2)(c), the "three-fourths" should be replaced by "four-fifths" and the three last lines, beginning with "any" should be deleted.

Comments: amendments to subparagraph (a) of 25(2) refers to the amendments of Articles 23 and 24 that indirectly is relevant to Article 25(1) namely, the revision of the Treaty.

Regarding the deletion of the last paragraph: in many countries the revision of treaties should pass the respective constitutional processes. Moreover, according to the Vienna Convention on contractual law, if an international treaty violates or be in contradiction with the constitutional process of any Member States, that obligation could be ignored.

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TLT/R/DC/23

March 22, 2006 (Original: Spanish)

RESOLUTIONS PROPOSED FOR ADOPTION  
BY THE DIPLOMATIC CONFERENCE

*Proposal by the Delegation of Honduras on Behalf of the Countries of the Group of Latin America and the Caribbean (GRULAC)*

Recognizing that one of the aims of the Revised Trademark Law Treaty (RTLTL) and the Regulations thereunder is to provide balanced and fair rules representing the interests of all the Contracting Parties and, in turn, to serve as an incentive for future accession by new members,

Recognizing the existence of different levels of social, economic and technological development in countries, mainly in developing countries and the least developed countries (LDCs),

Recognizing that the above affects the limited availability of technological, institutional and administrative resources,

Recognizing that the use of electronic communication means represents a positive aspect within the context of the RTLTL and the Regulations thereunder,

The Conference decides that:

1. The ever more frequent tendency to use electronic means for the transmission of communications by the Contracting Parties to the RTLTL and the Regulations thereunder must be supported by prompt and appropriate technical assistance and the strengthening of institutions in all their different aspects, mainly through the contribution that may come from WIPO and from developed countries. This assistance will depend on the level of technological and economic development of beneficiary countries, primarily developing countries and LDCs.
2. The Contracting Parties undertake to exchange, transfer and share, on a multilateral basis, the experience and knowledge acquired in the technological and institutional fields, with reference to the various technical aspects relating to development, as applied to the provisions of the RTLTL and the Regulations thereunder, in accordance with the priorities of each country.

Comment

In conclusion, the aim of both decisions is to facilitate the implementation by the Contracting Parties to the RLT and the Regulations thereunder, and also to enhance their operational capacities in terms of institutional, technological, technical and administrative aspects.

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TLT/R/DC/24

March 24, 2006 (Original: English)

## DRAFT SINGAPORE TREATY ON THE LAW OF TRADEMARKS

*submitted to Main Committees I and II  
by the Drafting Committee*

## DRAFT SINGAPORE TREATY ON THE LAW OF TRADEMARKS

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*Article 1*  
*Abbreviated Expressions*

For the purposes of this Treaty, unless expressly stated otherwise:

- (i) "Office" means the agency entrusted by a Contracting Party with the registration of marks;
- (ii) "registration" means the registration of a mark by an Office;
- (iii) "application" means an application for registration;
- (iv) "communication" means any application, or any request, declaration, correspondence or other information relating to an application or a registration, which is filed with the Office;
- (v) references to a "person" shall be construed as references to both a natural person and a legal entity;
- (vi) "holder" means the person whom the register of marks shows as the holder of the registration;
- (vii) "register of marks" means the collection of data maintained by an Office, which includes the contents of all registrations and all data recorded in respect of all registrations, irrespective of the medium in which such data are stored;
- (viii) "procedure before the Office" means any procedure in proceedings before the Office with respect to an application or a registration;
- (ix) "Paris Convention" means the Paris Convention for the Protection of Industrial Property, signed at Paris on March 20, 1883, as revised and amended;
- (x) "Nice Classification" means the classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, signed at Nice on June 15, 1957, as revised and amended;
- (xi) "license" means a license for the use of a mark under the law of a Contracting Party;
- (xii) "licensee" means the person to whom a license has been granted;
- (xiii) "Contracting Party" means any State or intergovernmental organization party to this Treaty;
- (xiv) "Diplomatic Conference" means the convocation of Contracting Parties for the purpose of revising or amending the Treaty;

- (xv) “Assembly” means the Assembly referred to in Article 23;
- (xvi) references to an “instrument of ratification” shall be construed as including references to instruments of acceptance and approval;
- (xvii) “Organization” means the World Intellectual Property Organization;
- (xviii) “International Bureau” means the International Bureau of the Organization;
- (xix) “Director General” means the Director General of the Organization;
- (xx) “Regulations” means the Regulations under this Treaty that are referred to in Article 22;
- (xxi) references to an “Article” or to a “paragraph”, “subparagraph” or “item” of an Article shall be construed as including references to the corresponding rule(s) under the Regulations;
- (xxii) “TLT 1994” means the Trademark Law Treaty done at Geneva on October 27, 1994.

*Article 2*  
*Marks to Which the Treaty Applies*

- (1) [*Nature of Marks*] Any Contracting Party shall apply this Treaty to marks consisting of signs that can be registered as marks under its law.
- (2) [*Kinds of Marks*]
  - (a) This Treaty shall apply to marks relating to goods (trademarks) or services (service marks) or both goods and services.
  - (b) This Treaty shall not apply to collective marks, certification marks and guarantee marks.

*Article 3*  
*Application*

- (1) [*Indications or Elements Contained in or Accompanying an Application; Fee*]
  - (a) Any Contracting Party may require that an application contain some or all of the following indications or elements:
    - (i) a request for registration;
    - (ii) the name and address of the applicant;

- (iii) the name of a State of which the applicant is a national if he is the national of any State, the name of a State in which the applicant has his domicile, if any, and the name of a State in which the applicant has a real and effective industrial or commercial establishment, if any;
- (iv) where the applicant is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;
- (v) where the applicant has a representative, the name and address of that representative;
- (vi) where an address for service is required under Article 4(2)(b), such address;
- (vii) where the applicant wishes to take advantage of the priority of an earlier application, a declaration claiming the priority of that earlier application, together with indications and evidence in support of the declaration of priority that may be required pursuant to Article 4 of the Paris Convention;
- (viii) where the applicant wishes to take advantage of any protection resulting from the display of goods and/or services in an exhibition, a declaration to that effect, together with indications in support of that declaration, as required by the law of the Contracting Party;
- (ix) at least one representation of the mark, as prescribed in the Regulations;
- (x) where applicable, a statement, as prescribed in the Regulations, indicating the type of mark as well as any specific requirements applicable to that type of mark;
- (xi) where applicable, a statement, as prescribed in the Regulations, indicating that the applicant wishes that the mark be registered and published in the standard characters used by the Office;
- (xii) where applicable, a statement, as prescribed in the Regulations, indicating that the applicant wishes to claim color as a distinctive feature of the mark;
- (xiii) a transliteration of the mark or of certain parts of the mark;
- (xiv) a translation of the mark or of certain parts of the mark;
- (xv) the names of the goods and/or services for which the registration is sought, grouped according to the classes of the Nice Classification, each group preceded by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;
- (xvi) a declaration of intention to use the mark, as required by the law of the Contracting Party.

(b) The applicant may file, instead of or in addition to the declaration of intention to use the mark referred to in subparagraph (a)(xvi), a declaration of actual use of the mark and evidence to that effect, as required by the law of the Contracting Party.

(c) Any Contracting Party may require that, in respect of the application, fees be paid to the Office.

(2) [*Single Application for Goods and/or Services in Several Classes*] One and the same application may relate to several goods and/or services, irrespective of whether they belong to one class or to several classes of the Nice Classification.

(3) [*Actual Use*] Any Contracting Party may require that, where a declaration of intention to use has been filed under paragraph (1)(a)(xvi), the applicant furnish to the Office within a time limit fixed in its law, subject to the minimum time limit prescribed in the Regulations, evidence of the actual use of the mark, as required by the said law.

(4) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (3) and in Article 8 be complied with in respect of the application. In particular, the following may not be required in respect of the application throughout its pendency:

(i) the furnishing of any certificate of, or extract from, a register of commerce;

(ii) an indication of the applicant's carrying on of an industrial or commercial activity, as well as the furnishing of evidence to that effect;

(iii) an indication of the applicant's carrying on of an activity corresponding to the goods and/or services listed in the application, as well as the furnishing of evidence to that effect;

(iv) the furnishing of evidence to the effect that the mark has been registered in the register of marks of another Contracting Party or of a State party to the Paris Convention which is not a Contracting Party, except where the applicant claims the application of Article 6quinquies of the Paris Convention.

(5) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office in the course of the examination of the application where the Office may reasonably doubt the veracity of any indication or element contained in the application.

#### Article 4

##### *Representation; Address for Service*

(1) [*Representatives Admitted to Practice*]

(a) Any Contracting Party may require that a representative appointed for the purposes of any procedure before the Office



(i) have the right, under the applicable law, to practice before the Office in respect of applications and registrations and, where applicable, be admitted to practice before the Office;

(ii) provide, as its address, an address on a territory prescribed by the Contracting Party.

(b) An act, with respect to any procedure before the Office, by or in relation to a representative who complies with the requirements applied by the Contracting Party under subparagraph (a), shall have the effect of an act by or in relation to the applicant, holder or other interested person who appointed that representative.

(2) [*Mandatory Representation; Address for Service*]

(a) Any Contracting Party may require that, for the purposes of any procedure before the Office, an applicant, holder or other interested person who has neither a domicile nor a real and effective industrial or commercial establishment on its territory be represented by a representative.

(b) Any Contracting Party may, to the extent that it does not require representation in accordance with subparagraph (a), require that, for the purposes of any procedure before the Office, an applicant, holder or other interested person who has neither a domicile nor a real and effective industrial or commercial establishment on its territory have an address for service on that territory.

(3) [*Power of Attorney*]

(a) Whenever a Contracting Party allows or requires an applicant, a holder or any other interested person to be represented by a representative before the Office, it may require that the representative be appointed in a separate communication (hereinafter referred to as "power of attorney") indicating the name of the applicant, the holder or the other person, as the case may be.

(b) The power of attorney may relate to one or more applications and/or registrations identified in the power of attorney or, subject to any exception indicated by the appointing person, to all existing and future applications and/or registrations of that person.

(c) The power of attorney may limit the powers of the representative to certain acts. Any Contracting Party may require that any power of attorney under which the representative has the right to withdraw an application or to surrender a registration contain an express indication to that effect.

(d) Where a communication is submitted to the Office by a person who refers to itself in the communication as a representative but where the Office is, at the time of the receipt of the communication, not in possession of the required power of attorney, the Contracting Party may require that the power of attorney be submitted to the Office within the time limit fixed by the Contracting Party, subject to the minimum time limit prescribed in the

Regulations. Any Contracting Party may provide that, where the power of attorney has not been submitted to the Office within the time limit fixed by the Contracting Party, the communication by the said person shall have no effect.

(4) [*Reference to Power of Attorney*] Any Contracting Party may require that any communication made to the Office by a representative for the purposes of a procedure before the Office contain a reference to the power of attorney on the basis of which the representative acts.

(5) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (3) and (4) and in Article 8 be complied with in respect of the matters dealt with in those paragraphs.

(6) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in any communication referred to in paragraphs (3) and (4).

#### *Article 5* *Filing Date*

(1) [*Permitted Requirements*]

(a) Subject to subparagraph (b) and paragraph (2), a Contracting Party shall accord as the filing date of an application the date on which the Office received the following indications and elements in the language required under Article 8(2):

- (i) an express or implicit indication that the registration of a mark is sought;
- (ii) indications allowing the identity of the applicant to be established;
- (iii) indications allowing the applicant or its representative, if any, to be contacted by the Office;
- (iv) a sufficiently clear representation of the mark whose registration is sought;
- (v) the list of the goods and/or services for which the registration is sought;
- (vi) where Article 3(1)(a)(xvi) or (b) applies, the declaration referred to in Article 3(1)(a)(xvi) or the declaration and evidence referred to in Article 3(1)(b), respectively, as required by the law of the Contracting Party.

(b) Any Contracting Party may accord as the filing date of the application the date on which the Office received only some, rather than all, of the indications and elements referred to in subparagraph (a) or received them in a language other than the language required under Article 8(2).

(2) [*Permitted Additional Requirement*]

(a) A Contracting Party may provide that no filing date shall be accorded until the required fees are paid.

(b) A Contracting Party may apply the requirement referred to in subparagraph (a) only if it applied such requirement at the time of becoming party to this Treaty.

(3) [*Corrections and Time Limits*] The modalities of, and time limits for, corrections under paragraphs (1) and (2) shall be fixed in the Regulations.

(4) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) be complied with in respect of the filing date.

*Article 6*

*Single Registration for Goods and/or Services in Several Classes*

Where goods and/or services belonging to several classes of the Nice Classification have been included in one and the same application, such an application shall result in one and the same registration.

*Article 7*

*Division of Application and Registration*

(1) [*Division of Application*]

(a) Any application listing several goods and/or services (hereinafter referred to as "initial application") may,

- (i) at least until the decision by the Office on the registration of the mark,
- (ii) during any opposition proceedings against the decision of the Office to register the mark,
- (iii) during any appeal proceedings against the decision on the registration of the mark,

be divided by the applicant or at its request into two or more applications (hereinafter referred to as "divisional applications") by distributing among the latter the goods and/or services listed in the initial application. The divisional applications shall preserve the filing date of the initial application and the benefit of the right of priority, if any.

(b) Any Contracting Party shall, subject to subparagraph (a), be free to establish requirements for the division of an application, including the payment of fees.

(2) [*Division of Registration*] Paragraph (1) shall apply, *mutatis mutandis*, with respect to a division of a registration. Such a division shall be permitted

(i) during any proceedings in which the validity of the registration is challenged before the Office by a third party,

(ii) during any appeal proceedings against a decision taken by the Office during the former proceedings,

provided that a Contracting Party may exclude the possibility of the division of registrations if its law allows third parties to oppose the registration of a mark before the mark is registered.

### *Article 8* *Communications*

(1) [*Means of Transmittal and Form of Communications*] Any Contracting Party may choose the means of transmittal of communications and whether it accepts communications on paper, communications in electronic form or any other form of communication.

(2) [*Language of Communications*]

(a) Any Contracting Party may require that any communication be in a language admitted by the Office. Where the Office admits more than one language, the applicant, holder or other interested person may be required to comply with any other language requirement applicable with respect to the Office, provided that no indication or element of the communication may be required to be in more than one language.

(b) No Contracting Party may require the attestation, notarization, authentication, legalization or any other certification of any translation of a communication other than as provided under this Treaty.

(c) Where an Office does not require a communication to be in a language admitted by the Office, it may require that a translation of that communication by an official translator or a representative, into a language admitted by the Office, be supplied within a reasonable time limit.

(3) [*Signature of Communications on Paper*]

(a) Any Contracting Party may require that a communication on paper be signed by the applicant, holder or other interested person. Where a Contracting Party requires a communication on paper to be signed, that Contracting Party shall accept any signature that complies with the requirements prescribed in the Regulations.

(b) No Contracting Party may require the attestation, notarization, authentication, legalization or other certification of any signature except, where the law of the Contracting Party so provides, if the signature concerns the surrender of a registration.

(c) Notwithstanding subparagraph (b), a Contracting Party may require that evidence be filed with the Office where the Office may reasonably doubt the authenticity of any signature of a communication on paper.

(4) [*Communications Filed in Electronic Form or by Electronic Means of Transmittal*] Where a Contracting Party permits the filing of communications in electronic form or by electronic means of transmittal, it may require that any such communications comply with the requirements prescribed in the Regulations.

(5) [*Presentation of a Communication*] Any Contracting Party shall accept the presentation of a communication the content of which corresponds to the relevant Model International Form, if any, provided for in the Regulations.

(6) [*Prohibition of Other Requirements*] No Contracting Party may demand that, in respect of paragraphs (1) to (5), requirements other than those referred to in this Article be complied with.

(7) [*Means of Communication with Representative*] Nothing in this Article regulates the means of communication between an applicant, holder or other interested person and its representative.

#### Article 9

##### *Classification of Goods and/or Services*

(1) [*Indications of Goods and/or Services*] Each registration and any publication effected by an Office which concerns an application or registration and which indicates goods and/or services shall indicate the goods and/or services by their names, grouped according to the classes of the Nice Classification, and each group shall be preceded by the number of the class of that Classification to which that group of goods or services belongs and shall be presented in the order of the classes of the said Classification.

(2) [*Goods or Services in the Same Class or in Different Classes*]

(a) Goods or services may not be considered as being similar to each other on the ground that, in any registration or publication by the Office, they appear in the same class of the Nice Classification.

(b) Goods or services may not be considered as being dissimilar from each other on the ground that, in any registration or publication by the Office, they appear in different classes of the Nice Classification.

*Article 10*  
*Changes in Names or Addresses*

(1) [*Changes in the Name or Address of the Holder*]

(a) Where there is no change in the person of the holder but there is a change in its name and/or address, each Contracting Party shall accept that a request for the recordal of the change by the Office in its register of marks be made by the holder in a communication indicating the registration number of the registration concerned and the change to be recorded.

(b) Any Contracting Party may require that the request indicate

(i) the name and address of the holder;

(ii) where the holder has a representative, the name and address of that representative;

(iii) where the holder has an address for service, such address.

(c) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(d) A single request shall be sufficient even where the change relates to more than one registration, provided that the registration numbers of all registrations concerned are indicated in the request.

(2) [*Change in the Name or Address of the Applicant*] Paragraph (1) shall apply, *mutatis mutandis*, where the change concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or its representative, the request otherwise identifies that application as prescribed in the Regulations.

(3) [*Change in the Name or Address of the Representative or in the Address for Service*] Paragraph (1) shall apply, *mutatis mutandis*, to any change in the name or address of the representative, if any, and to any change relating to the address for service, if any.

(4) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (3) and in Article 8 be complied with in respect of the request referred to in this Article. In particular, the furnishing of any certificate concerning the change may not be required.

(5) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in the request.

*Article 11*  
*Change in Ownership*

(1) [*Change in the Ownership of a Registration*]

(a) Where there is a change in the person of the holder, each Contracting Party shall accept that a request for the recordal of the change by the Office in its register of marks be made by the holder or by the person who acquired the ownership (hereinafter referred to as "new owner") in a communication indicating the registration number of the registration concerned and the change to be recorded.

(b) Where the change in ownership results from a contract, any Contracting Party may require that the request indicate that fact and be accompanied, at the option of the requesting party, by one of the following:

(i) a copy of the contract, which copy may be required to be certified, by a notary public or any other competent public authority, as being in conformity with the original contract;

(ii) an extract of the contract showing the change in ownership, which extract may be required to be certified, by a notary public or any other competent public authority, as being a true extract of the contract;

(iii) an uncertified certificate of transfer drawn up in the form and with the content as prescribed in the Regulations and signed by both the holder and the new owner;

(iv) an uncertified transfer document drawn up in the form and with the content as prescribed in the Regulations and signed by both the holder and the new owner.

(c) Where the change in ownership results from a merger, any Contracting Party may require that the request indicate that fact and be accompanied by a copy of a document, which document originates from the competent authority and evidences the merger, such as a copy of an extract from a register of commerce, and that that copy be certified by the authority which issued the document or by a notary public or any other competent public authority, as being in conformity with the original document.

(d) Where there is a change in the person of one or more but not all of several co-holders and such change in ownership results from a contract or a merger, any Contracting Party may require that any co-holder in respect of which there is no change in ownership give its express consent to the change in ownership in a document signed by it.

(e) Where the change in ownership does not result from a contract or a merger but from another ground, for example, from operation of law or a court decision, any Contracting Party may require that the request indicate that fact and be accompanied by a copy of a document evidencing the change and that that copy be certified as being in conformity with the original document by the authority which issued the document or by a notary public or any other competent public authority.

- (f) Any Contracting Party may require that the request indicate
- (i) the name and address of the holder;
  - (ii) the name and address of the new owner;
  - (iii) the name of a State of which the new owner is a national if he/she is the national of any State, the name of a State in which the new owner has his/her domicile, if any, and the name of a State in which the new owner has a real and effective industrial or commercial establishment, if any;
  - (iv) where the new owner is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;
  - (v) where the holder has a representative, the name and address of that representative;
  - (vi) where the holder has an address for service, such address;
  - (vii) where the new owner has a representative, the name and address of that representative;
  - (viii) where the new owner is required to have an address for service under Article 4(2)(b), such address.
- (g) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.
- (h) A single request shall be sufficient even where the change relates to more than one registration, provided that the holder and the new owner are the same for each registration and that the registration numbers of all registrations concerned are indicated in the request.
- (i) Where the change of ownership does not affect all the goods and/or services listed in the holder's registration, and the applicable law allows the recording of such change, the Office shall create a separate registration referring to the goods and/or services in respect of which the ownership has changed.
- (2) [*Change in the Ownership of an Application*] Paragraph (1) shall apply, *mutatis mutandis*, where the change in ownership concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or his representative, the request otherwise identifies that application as prescribed in the Regulations.



(3) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) and in Article 8 be complied with in respect of the request referred to in this Article. In particular, the following may not be required:

- (i) subject to paragraph (1)(c), the furnishing of any certificate of, or extract from, a register of commerce;
- (ii) an indication of the new owner's carrying on of an industrial or commercial activity, as well as the furnishing of evidence to that effect;
- (iii) an indication of the new owner's carrying on of an activity corresponding to the goods and/or services affected by the change in ownership, as well as the furnishing of evidence to either effect;
- (iv) an indication that the holder transferred, entirely or in part, its business or the relevant goodwill to the new owner, as well as the furnishing of evidence to either effect.

(4) [*Evidence*] Any Contracting Party may require that evidence, or further evidence where paragraph (1)(c) or (e) applies, be furnished to the Office where that Office may reasonably doubt the veracity of any indication contained in the request or in any document referred to in the present Article.

*Article 12*  
*Correction of a Mistake*

(1) [*Correction of a Mistake in Respect of a Registration*]

(a) Each Contracting Party shall accept that the request for the correction of a mistake which was made in the application or other request communicated to the Office and which mistake is reflected in its register of marks and/or any publication by the Office be made by the holder in a communication indicating the registration number of the registration concerned, the mistake to be corrected and the correction to be entered.

- (b) Any Contracting Party may require that the request indicate
  - (i) the name and address of the holder;
  - (ii) where the holder has a representative, the name and address of that representative;
  - (iii) where the holder has an address for service, such address.

(c) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(d) A single request shall be sufficient even where the correction relates to more than one registration of the same person, provided that the mistake and the requested correction are the same for each registration and that the registration numbers of all registrations concerned are indicated in the request.

(2) [*Correction of a Mistake in Respect of an Application*] Paragraph (1) shall apply, *mutatis mutandis*, where the mistake concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or its representative, the request otherwise identifies that application as prescribed in the Regulations.

(3) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) and in Article 8 be complied with in respect of the request referred to in this Article.

(4) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt that the alleged mistake is in fact a mistake.

(5) [*Mistakes Made by the Office*] The Office of a Contracting Party shall correct its own mistakes, *ex officio* or upon request, for no fee.

(6) [*Uncorrectable Mistakes*] No Contracting Party shall be obliged to apply paragraphs (1), (2) and (5) to any mistake which cannot be corrected under its law.

### *Article 13* *Duration and Renewal of Registration*

(1) [*Indications or Elements Contained in or Accompanying a Request for Renewal; Fee*]

(a) Any Contracting Party may require that the renewal of a registration be subject to the filing of a request and that such request contain some or all of the following indications:

- (i) an indication that renewal is sought;
- (ii) the name and address of the holder;
- (iii) the registration number of the registration concerned;
- (iv) at the option of the Contracting Party, the filing date of the application which resulted in the registration concerned or the registration date of the registration concerned;
- (v) where the holder has a representative, the name and address of that representative;

(vi) where the holder has an address for service, such address;

(vii) where the Contracting Party allows the renewal of a registration to be made for some only of the goods and/or services which are recorded in the register of marks and such a renewal is requested, the names of the recorded goods and/or services for which the renewal is requested or the names of the recorded goods and/or services for which the renewal is not requested, grouped according to the classes of the Nice Classification, each group preceded by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;

(viii) where a Contracting Party allows a request for renewal to be filed by a person other than the holder or its representative and the request is filed by such a person, the name and address of that person.

(b) Any Contracting Party may require that, in respect of the request for renewal, a fee be paid to the Office. Once the fee has been paid in respect of the initial period of the registration or of any renewal period, no further payment may be required for the maintenance of the registration in respect of that period. Fees associated with the furnishing of a declaration and/or evidence of use shall not be regarded, for the purposes of this subparagraph, as payments required for the maintenance of the registration and shall not be affected by this subparagraph.

(c) Any Contracting Party may require that the request for renewal be presented, and the corresponding fee referred to in subparagraph (b) be paid, to the Office within the period fixed by the law of the Contracting Party, subject to the minimum periods prescribed in the Regulations.

(2) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraph (1) and in Article 8 be complied with in respect of the request for renewal. In particular, the following may not be required:

(i) any representation or other identification of the mark;

(ii) the furnishing of evidence to the effect that the mark has been registered, or that its registration has been renewed, in any other register of marks;

(iii) the furnishing of a declaration and/or evidence concerning use of the mark.

(3) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office in the course of the examination of the request for renewal where the Office may reasonably doubt the veracity of any indication or element contained in the request for renewal.

(4) [*Prohibition of Substantive Examination*] No Office of a Contracting Party may, for the purposes of effecting the renewal, examine the registration as to substance.

(5) [*Duration*] The duration of the initial period of the registration, and the duration of each renewal period, shall be 10 years.

#### *Article 14*

##### *Relief Measures in Case of Failure to Comply with Time Limits*

(1) [*Relief Measure Before the Expiry of a Time Limit*] A Contracting Party may provide for the extension of a time limit for an action in a procedure before the Office in respect of an application or a registration, if a request to that effect is filed with the Office prior to the expiry of the time limit.

(2) [*Relief Measures After the Expiry of a Time Limit*] Where an applicant, holder or other interested person has failed to comply with a time limit ("the time limit concerned") for an action in a procedure before the Office of a Contracting Party in respect of an application or a registration, the Contracting Party shall provide for one or more of the following relief measures, in accordance with the requirements prescribed in the Regulations, if a request to that effect is filed with the Office:

- (i) extension of the time limit concerned for the period prescribed in the Regulations;
- (ii) continued processing with respect to the application or registration;
- (iii) reinstatement of the rights of the applicant, holder or other interested person with respect to the application or registration if the Office finds that the failure to comply with the time limit concerned occurred in spite of due care required by the circumstances having been taken or, at the option of the Contracting Party, that the failure was unintentional.

(3) [*Exceptions*] No Contracting Party shall be required to provide for any of the relief measures referred to in paragraph (2) with respect to the exceptions prescribed in the Regulations.

(4) [*Fees*] Any Contracting Party may require that a fee be paid in respect of any of the relief measures referred to in paragraphs (1) and (2).

(5) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in this Article and in Article 8 be complied with in respect of any of the relief measures referred to in paragraph (2).

#### *Article 15*

##### *Obligation to Comply with the Paris Convention*

Any Contracting Party shall comply with the provisions of the Paris Convention which concern marks.

*Article 16*  
*Service Marks*

Any Contracting Party shall register service marks and apply to such marks the provisions of the Paris Convention which concern trademarks.

*Article 17*  
*Request for Recordal of a License*

(1) [*Requirements Concerning the Request for Recordal*] Where the law of a Contracting Party provides for the recordal of a license with its Office, that Contracting Party may require that the request for recordal

(i) be filed in accordance with the requirements prescribed in the Regulations, and;

(ii) be accompanied by the supporting documents prescribed in the Regulations.

(2) [*Fee*] Any Contracting Party may require that, in respect of the recordal of a license, a fee be paid to the Office.

(3) [*Single Request Relating to Several Registrations*] A single request shall be sufficient even where the license relates to more than one registration, provided that the registration numbers of all registrations concerned are indicated in the request, the holder and the licensee are the same for all registrations, and the request indicates the scope of the license in accordance with the Regulations with respect to all registrations.

(4) [*Prohibition of Other Requirements*]

(a) No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (3) and in Article 8 be complied with in respect of the recordal of a license with its Office. In particular, the following may not be required:

(i) the furnishing of the registration certificate of the mark which is the subject of the license;

(ii) the furnishing of the license contract or a translation of it;

(iii) an indication of the financial terms of the license contract.

(b) Subparagraph (a) is without prejudice to any obligations existing under the law of a Contracting Party concerning the disclosure of information for purposes other than the recording of the license in the register of marks.

(5) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in the request or in any document referred to in the Regulations.

(6) [*Requests Relating to Applications*] Paragraphs (1) to (5) shall apply, *mutatis mutandis*, to requests for recordal of a license for an application, where the law of a Contracting Party provides for such recordal.

#### Article 18

##### *Request for Amendment or Cancellation of the Recordal of a License*

(1) [*Requirements Concerning the Request*] Where the law of a Contracting Party provides for the recordal of a license with its Office, that Contracting Party may require that the request for amendment or cancellation of the recordal of a license

(i) be filed in accordance with the requirements prescribed in the Regulations, and

(ii) be accompanied by the supporting documents prescribed in the Regulations.

(2) [*Other Requirements*] Article 17(2) to (6) shall apply, *mutatis mutandis*, to requests for amendment or cancellation of the recordal of a license.

#### Article 19

##### *Effects of the Non-Recordal of a License*

(1) [*Validity of the Registration and Protection of the Mark*] The non-recordal of a license with the Office or with any other authority of the Contracting Party shall not affect the validity of the registration of the mark which is the subject of the license or the protection of that mark.

(2) [*Certain Rights of the Licensee*] A Contracting Party may not require the recordal of a license as a condition for any right that the licensee may have under the law of that Contracting Party to join infringement proceedings initiated by the holder or to obtain, by way of such proceedings, damages resulting from an infringement of the mark which is the subject of the license.

(3) [*Use of a Mark Where License Is Not Recorded*] A Contracting Party may not require the recordal of a license as a condition for the use of a mark by a licensee to be deemed to constitute use by the holder in proceedings relating to the acquisition, maintenance and enforcement of marks.

*Article 20*  
*Indication of the License*

Where the law of a Contracting Party requires an indication that the mark is used under a license, full or partial non-compliance with that requirement shall not affect the validity of the registration of the mark which is the subject of the license or the protection of that mark, and shall not affect the application of Article 19(3).

*Article 21*  
*Observations in Case of Intended Refusal*

An application under Article 3 or a request under Articles 7, 10 to 14, 17 and 18 may not be refused totally or in part by an Office without giving the applicant or the requesting party, as the case may be, an opportunity to make observations on the intended refusal within a reasonable time limit. In respect of Article 14, no Office shall be required to give an opportunity to make observations where the person requesting the relief measure has already had an opportunity to present an observation on the facts on which the decision is to be based.

*Article 22*  
*Regulations*

- (1) [*Content*]
  - (a) The Regulations annexed to this Treaty provide rules concerning
    - (i) matters which this Treaty expressly provides to be "prescribed in the Regulations";
    - (ii) any details useful in the implementation of the provisions of this Treaty;
    - (iii) any administrative requirements, matters or procedures.
  - (b) The Regulations also contain Model International Forms.
- (2) [*Amending the Regulations*] Subject to paragraph (3), any amendment of the Regulations shall require three-fourths of the votes cast.
- (3) [*Requirement of Unanimity*]
  - (a) The Regulations may specify provisions of the Regulations which may be amended only by unanimity.
  - (b) Any amendment of the Regulations resulting in the addition of provisions to, or the deletion of provisions from, the provisions specified in the Regulations pursuant to subparagraph (a) shall require unanimity.

(c) In determining whether unanimity is attained, only votes actually cast shall be taken into consideration. Abstentions shall not be considered as votes.

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

*Article 23*  
*Assembly*

(1) [*Composition*]

(a) The Contracting Parties shall have an Assembly.

(b) Each Contracting Party shall be represented in the Assembly by one delegate, who may be assisted by alternate delegates, advisors and experts. Each delegate may represent only one Contracting Party.

(2) [*Tasks*] The Assembly shall

(i) deal with matters concerning the development of this Treaty;

(ii) amend the Regulations, including the Model International Forms;

(iii) determine the conditions for the date of application of each amendment referred to in item (ii);

(iv) perform such other functions as are appropriate to implementing the provisions of this Treaty.

(3) [*Quorum*]

(a) One-half of the members of the Assembly which are States shall constitute a quorum.

(b) Notwithstanding subparagraph (a), if, in any session, the number of the members of the Assembly which are States and are represented is less than one-half but equal to or more than one-third of the members of the Assembly which are States, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the members of the Assembly which are States and were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of such members having thus expressed their vote or abstention attains the number of the members which was lacking for attaining the quorum in the session itself, such decisions shall take effect, provided that at the same time the required majority still obtains.



(4) [*Taking Decisions in the Assembly*]

(a) The Assembly shall endeavor to take its decisions by consensus.

(b) Where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. In such a case,

(i) each Contracting Party that is a State shall have one vote and shall vote only in its own name; and

(ii) any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its Member States which are party to this Treaty. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and vice versa. In addition, no such intergovernmental organization shall participate in the vote if any one of its Member States party to this Treaty is a Member State of another such intergovernmental organization and that other intergovernmental organization participates in that vote.

(5) [*Majorities*]

(a) Subject to Articles 22(2) and (3), the decisions of the Assembly shall require two-thirds of the votes cast.

(b) In determining whether the required majority is attained, only votes actually cast shall be taken into consideration. Abstentions shall not be considered as votes.

(6) [*Sessions*] The Assembly shall meet upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(7) [*Rules of Procedure*] The Assembly shall establish its own rules of procedure, including rules for the convocation of extraordinary sessions.

*Article 24*  
*International Bureau*

(1) [*Administrative Tasks*]

(a) The International Bureau shall perform the administrative tasks concerning this Treaty.

(b) In particular, the International Bureau shall prepare the meetings and provide the secretariat of the Assembly and of such committees of experts and working groups as may be established by the Assembly.

(2) [*Meetings Other than Sessions of the Assembly*] The Director General shall convene any committee and working group established by the Assembly.

(3) [*Role of the International Bureau in the Assembly and Other Meetings*]

(a) The Director General and persons designated by the Director General shall participate, without the right to vote, in all meetings of the Assembly, the committees and working groups established by the Assembly.

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

(4) [*Conferences*]

(a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for any revision conferences.

(b) The International Bureau may consult with Member States of the Organization, intergovernmental organizations and international and national non-governmental organizations concerning the said preparations.

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

(5) [*Other Tasks*] The International Bureau shall carry out any other tasks assigned to it in relation to this Treaty.

*Article 25*  
*Revision or Amendment*

This Treaty may only be revised or amended by a diplomatic conference. The convocation of any diplomatic conference shall be decided by the Assembly.

*Article 26*  
*Becoming Party to the Treaty*

(1) [*Eligibility*] The following entities may sign and, subject to paragraphs (2) and (3) and Article 28(1) and (3), become party to this Treaty:

(i) any State member of the Organization in respect of which marks may be registered with its own Office;

(ii) any intergovernmental organization which maintains an Office in which marks may be registered with effect in the territory in which the constituting treaty of the intergovernmental organization applies, in all its Member States or in those of its Member States which are designated for such purpose in the relevant application, provided that all the Member States of the intergovernmental organization are members of the Organization;

(iii) any State member of the Organization in respect of which marks may be registered only through the Office of another specified State that is a member of the Organization;

(iv) any State member of the Organization in respect of which marks may be registered only through the Office maintained by an intergovernmental organization of which that State is a member;

(v) any State member of the Organization in respect of which marks may be registered only through an Office common to a group of States members of the Organization.

(2) [*Ratification or Accession*] Any entity referred to in paragraph (1) may deposit

(i) an instrument of ratification, if it has signed this Treaty,

(ii) an instrument of accession, if it has not signed this Treaty.

(3) [*Effective Date of Deposit*] The effective date of the deposit of an instrument of ratification or accession shall be,

(i) in the case of a State referred to in paragraph (1)(i), the date on which the instrument of that State is deposited;

(ii) in the case of an intergovernmental organization, the date on which the instrument of that intergovernmental organization is deposited;

(iii) in the case of a State referred to in paragraph (1)(iii), the date on which the following condition is fulfilled: the instrument of that State has been deposited and the instrument of the other, specified State has been deposited;

(iv) in the case of a State referred to in paragraph (1)(iv), the date applicable under item (ii), above;

(v) in the case of a State member of a group of States referred to in paragraph (1)(v), the date on which the instruments of all the States members of the group have been deposited.

*Article 27**Application of the TLT 1994 and This Treaty*

(1) [*Relations Between Contracting Parties to Both This Treaty and the TLT 1994*] This Treaty alone shall be applicable as regards the mutual relations of Contracting Parties to both this Treaty and the TLT 1994.

(2) [*Relations Between Contracting Parties to This Treaty and Contracting Parties to the TLT 1994 That Are Not Party to This Treaty*] Any Contracting Party to both this Treaty and the TLT 1994 shall continue to apply the TLT 1994 in its relations with Contracting Parties to the TLT 1994 that are not party to this Treaty.

*Article 28**Entry into Force;**Effective Date of Ratifications and Accessions*

(1) [*Instruments to Be Taken into Consideration*] For the purposes of this Article, only instruments of ratification or accession that are deposited by entities referred to in Article 26(1) and that have an effective date according to Article 26(3) shall be taken into consideration.

(2) [*Entry into Force of the Treaty*] This Treaty shall enter into force three months after ten States or intergovernmental organizations referred to in Article 26(1)(ii) have deposited their instruments of ratification or accession.

(3) [*Entry into Force of Ratifications and Accessions Subsequent to the Entry into Force of the Treaty*] Any entity not covered by paragraph (2) shall become bound by this Treaty three months after the date on which it has deposited its instrument of ratification or accession.

*Article 29**Reservations*

(1) [*Special Kinds of Marks*] Any State or intergovernmental organization may declare through a reservation that, notwithstanding Article 2(1) and (2)(a), any of the provisions of Articles 3(1), 5, 7, 8(5), 11 and 13 shall not apply to associated marks, defensive marks or derivative marks. Such reservation shall specify those of the aforementioned provisions to which the reservation relates.

(2) [*Multiple-class Registration*] Any State or intergovernmental organization, whose legislation at the date of adoption of this Treaty provides for a multiple-class registration for goods and for a multiple-class registration for services may, when acceding to this Treaty, declare through a reservation that the provisions of Article 6 shall not apply.

(3) [*Substantive Examination on the Occasion of Renewal*] Any State or intergovernmental organization may declare through a reservation that, notwithstanding Article 13(4), the Office may, on the occasion of the first renewal of a registration covering services, examine such registration as to substance, provided that such examination shall be limited to the elimination of multiple registrations based on applications filed during a period of six months following the entry into force of the law of such State or organization that introduced, before the entry into force of this Treaty, the possibility of registering service marks.

(4) [*Certain Rights of the Licensee*] Any State or intergovernmental organization may declare through a reservation that, notwithstanding Article 19(2), it requires the recordal of a license as a condition for any right that the licensee may have under the law of that State or intergovernmental organization to join infringement proceedings initiated by the holder or to obtain, by way of such proceedings, damages resulting from an infringement of the mark which is the subject of the license.

(5) [*Modalities*] Any reservation under paragraphs (1), (2), (3) or (4) shall be made in a declaration accompanying the instrument of ratification of, or accession to, this Treaty of the State or intergovernmental organization making the reservation.

(6) [*Withdrawal*] Any reservation under paragraphs (1), (2), (3) or (4) may be withdrawn at any time.

(7) [*Prohibition of Other Reservations*] No reservation to this Treaty other than the reservations allowed under paragraphs (1), (2), (3) and (4) shall be permitted.

*Article 30*  
*Denunciation of the Treaty*

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

(2) [*Effective Date*] Denunciation shall take effect one year from the date on which the Director General has received the notification. It shall not affect the application of this Treaty to any application pending or any mark registered in respect of the denouncing Contracting Party at the time of the expiration of the said one-year period, provided that the denouncing Contracting Party may, after the expiration of the said one-year period, discontinue applying this Treaty to any registration as from the date on which that registration is due for renewal.

*Article 31*  
*Languages of the Treaty; Signature*

(1) [*Original Texts; Official Texts*]

(a) This Treaty shall be signed in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic.

(b) An official text in a language not referred to in subparagraph (a) that is an official language of a Contracting Party shall be established by the Director General after consultation with the said Contracting Party and any other interested Contracting Party.

(2) [*Time Limit for Signature*] This Treaty shall remain open for signature at the headquarters of the Organization for one year after its adoption.

*Article 32*  
*Depositary*

The Director General shall be the depositary of this Treaty.

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TLT/R/DC/24 Corr.  
March 24, 2006 (Original: English)

CORRIGENDUM TO DOCUMENT TLT/R/DC/24

*prepared by the Secretariat*

Article 8(2)(c) should read as follows:

“Where a Contracting Party does not require a communication to be in a language admitted by its Office, the Office may require that a translation of that communication by an official translator or a representative, into a language admitted by the Office, be supplied within a reasonable time limit.”

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TLT/R/DC/25

March 24, 2006 (Original: English)

DRAFT REGULATIONS UNDER THE SINGAPORE TREATY  
ON THE LAW OF TRADEMARKS

*submitted to Main Committee I  
by the Drafting Committee*

REGULATIONS UNDER THE DRAFT SINGAPORE TREATY  
ON THE LAW OF TRADEMARKS

List of Rules

- Rule 1: Abbreviated Expressions
- Rule 2: Manner of Indicating Names and Addresses
- Rule 3: Details Concerning the Application
- Rule 4: Details Concerning Representation and Address for Service
- Rule 5: Details Concerning the Filing Date
- Rule 6: Details Concerning Communications
- Rule 7: Manner of Identification of an Application Without Its Application Number
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List of Model International Forms

- Form No. 1 Application for the Registration of a Mark
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- Form No. 3 Request for the Recordal of Change(s) in Name(s) and/or Address(es)
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- Form No. 7 Request for the Correction of Mistake(s) in Registration(s) and/or Application(s) for Registration of Marks
- Form No. 8 Request for the Renewal of a Registration

Form No. 9	Request for Recordal of License
Form No. 10	Statement of License
Form No. 11	Statement of Amendment of License
Form No. 12	Statement of Cancellation of License

*Rule 1*  
*Abbreviated Expressions*

(1) [*Abbreviated Expressions Defined in the Regulations*] For the purposes of these Regulations, unless expressly stated otherwise:

- (i) “Treaty” means the Revised Trademark Law Treaty;
- (ii) “Article” refers to the specified Article of the Treaty;
- (iii) “exclusive license” means a license which is only granted to one licensee and which excludes the holder from using the mark and from granting licenses to any other person;
- (iv) “sole license” means a license which is only granted to one licensee and which excludes the holder from granting licenses to any other person but does not exclude the holder from using the mark;
- (v) “non-exclusive license” means a license which does not exclude the holder from using the mark or from granting licenses to any other person.

(2) [*Abbreviated Expressions Defined in the Treaty*] The abbreviated expressions defined in Article 1 for the purposes of the Treaty shall have the same meaning for the purposes of these Regulations.

*Rule 2*  
*Manner of Indicating Names and Addresses*

- (1) [*Names*]
- (a) Where the name of a person is to be indicated, any Contracting Party may require,
    - (i) where the person is a natural person, that the name to be indicated be the family or principal name and the given or secondary name or names of that person or that the name to be indicated be, at that person’s option, the name or names customarily used by the said person;
    - (ii) where the person is a legal entity, that the name to be indicated be the full official designation of the legal entity.



(b) Where the name of a representative which is a firm or partnership is to be indicated, any Contracting Party shall accept as indication of the name the indication that the firm or partnership customarily uses.

(2) [*Addresses*]

(a) Where the address of a person is to be indicated, any Contracting Party may require that the address be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address and, in any case, consist of all the relevant administrative units up to, and including, the house or building number, if any.

(b) Where a communication to the Office of a Contracting Party is in the name of two or more persons with different addresses, that Contracting Party may require that such communication indicate a single address as the address for correspondence.

(c) The indication of an address may contain a telephone number, a telefacsimile number and an e-mail address and, for the purposes of correspondence, an address different from the address indicated under subparagraph (a).

(d) Subparagraphs (a) and (c) shall apply, *mutatis mutandis*, to addresses for service.

(3) Any Contracting Party may require that a communication to the Office indicate the number or other means of identification, if any, with which the applicant, holder, representative or interested person is registered with its Office. No Contracting Party may refuse a communication on grounds of failure to comply with any such requirement, except for applications filed in electronic form.

(4) [*Script to Be Used*] Any Contracting Party may require that any indication referred to in paragraphs (1) to (3) be in the script used by the Office.

### *Rule 3*

#### *Details Concerning the Application*

(1) [*Standard Characters*] Where the Office of a Contracting Party uses characters (letters and numbers) that it considers as being standard, and where the application contains a statement to the effect that the applicant wishes that the mark be registered and published in the standard characters used by the Office, the Office shall register and publish that mark in such standard characters.

(2) [*Mark Claiming Color*] Where the application contains a statement to the effect that the applicant wishes to claim color as a distinctive feature of the mark, the Office may require that the application indicate the name or code of the color or colors claimed and an indication, in respect of each color, of the principal parts of the mark which are in that color.

(3) [*Number of Reproductions*]

(a) Where the application does not contain a statement to the effect that the applicant wishes to claim color as a distinctive feature of the mark, a Contracting Party may not require more than

(i) five reproductions of the mark in black and white where the application may not, under the law of that Contracting Party, or does not contain a statement to the effect that the applicant wishes the mark to be registered and published in the standard characters used by the Office of the said Contracting Party;

(ii) one reproduction of the mark in black and white where the application contains a statement to the effect that the applicant wishes the mark to be registered and published in the standard characters used by the Office of that Contracting Party.

(b) Where the application contains a statement to the effect that the applicant wishes to claim color as a distinctive feature of the mark, a Contracting Party may not require more than five reproductions of the mark in black and white and five reproductions of the mark in color.

(4) [*Three-Dimensional Mark*]

(a) Where the application contains a statement to the effect that the mark is a three-dimensional mark, the reproduction of the mark shall consist of a two-dimensional graphic or photographic reproduction.

(b) The reproduction furnished under subparagraph (a) may, at the option of the applicant, consist of one single view of the mark or of several different views of the mark.

(c) Where the Office considers that the reproduction of the mark furnished by the applicant under subparagraph (a) does not sufficiently show the particulars of the three-dimensional mark, it may invite the applicant to furnish, within a reasonable time limit fixed in the invitation, up to six different views of the mark and/or a description by words of that mark.

(d) Where the Office considers that the different views and/or the description of the mark referred to in subparagraph (c) still do not sufficiently show the particulars of the three-dimensional mark, it may invite the applicant to furnish, within a reasonable time limit fixed in the invitation, a specimen of the mark.

(e) Paragraph (3)(a)(i) and (b) shall apply *mutatis mutandis*.

(5) [*Hologram Mark, Motion Mark, Color Mark, Position Mark*] Where the application contains a statement to the effect that the mark is a hologram mark, a motion mark, a color mark or a position mark, a Contracting Party may require one or more reproductions of the mark and details concerning the mark, as prescribed by the law of that Contracting Party.

(6) [*Mark Consisting of a Non-Visible Sign*] Where the application contains a statement to the effect that the mark consists of a non-visible sign, a Contracting Party may require one or more representations of the mark, an indication of the type of mark and details concerning the mark, as prescribed by the law of that Contracting Party.

(7) [*Transliteration of the Mark*] For the purposes of Article 3(1)(a)(xiii), where the mark consists of or contains matter in script other than the script used by the Office or numbers expressed in numerals other than numerals used by the Office, a transliteration of such matter in the script and numerals used by the Office may be required.

(8) [*Translation of the Mark*] For the purposes of Article 3(1)(a)(xiv), where the mark consists of or contains a word or words in a language other than the language, or one of the languages, admitted by the Office, a translation of that word or those words into that language or one of those languages may be required.

(9) [*Time Limit for Furnishing Evidence of Actual Use of the Mark*] The time limit referred to in Article 3(3) shall not be shorter than six months counted from the date of allowance of the application by the Office of the Contracting Party where that application was filed. The applicant or holder shall have the right to an extension of that time limit, subject to the conditions provided for by the law of that Contracting Party, by periods of at least six months each, up to a total extension of at least two years and a half.

#### *Rule 4*

##### *Details Concerning Representation and Address for Service*

(1) [*Address Where a Representative Is Appointed*] Where a representative is appointed, a Contracting Party shall consider the address of that representative to be the address for service.

(2) [*Address Where No Representative Is Appointed*] Where no representative is appointed and an applicant, holder or other interested person has provided as its address an address on the territory of the Contracting Party, that Contracting Party shall consider that address to be the address for service.

(3) [*Time Limit*] The time limit referred to in Article 4(3)(d) shall be counted from the date of receipt of the communication referred to in that Article by the Office of the Contracting Party concerned and shall not be less than one month where the address of the person on whose behalf the communication is made is on the territory of that Contracting Party and not less than two months where such an address is outside the territory of that Contracting Party.

*Rule 5**Details Concerning the Filing Date*

(1) [*Procedure in Case of Non-Compliance with Requirements*] If the application does not, at the time of its receipt by the Office, comply with any of the applicable requirements of Article 5(1)(a) or (2)(a), the Office shall promptly invite the applicant to comply with such requirements within a time limit indicated in the invitation, which time limit shall be at least one month from the date of the invitation where the applicant's address is on the territory of the Contracting Party concerned and at least two months where the applicant's address is outside the territory of the Contracting Party concerned. Compliance with the invitation may be subject to the payment of a special fee. Even if the Office fails to send the said invitation, the said requirements remain unaffected.

(2) [*Filing Date in Case of Correction*] If, within the time limit indicated in the invitation, the applicant complies with the invitation referred to in paragraph (1) and pays any required special fee, the filing date shall be the date on which all the required indications and elements referred to in Article 5(1)(a) have been received by the Office and, where applicable, the required fees referred to in Article 5(2)(a) have been paid to the Office. Otherwise, the application shall be treated as if it had not been filed.

*Rule 6**Details Concerning Communications*

(1) [*Indications Accompanying Signature of Communications on Paper*] Any Contracting Party may require that the signature of the natural person who signs be accompanied by

(i) an indication in letters of the family or principal name and the given or secondary name or names of that person or, at the option of that person, of the name or names customarily used by the said person;

(ii) an indication of the capacity in which that person signed, where such capacity is not obvious from reading the communication.

(2) [*Date of Signing*] Any Contracting Party may require that a signature be accompanied by an indication of the date on which the signing was effected. Where that indication is required but is not supplied, the date on which the signing is deemed to have been effected shall be the date on which the communication bearing the signature was received by the Office or, if the Contracting Party so allows, a date earlier than the latter date.

(3) [*Signature of Communications on Paper*] Where a communication to the Office of a Contracting Party is on paper and a signature is required, that Contracting Party

(i) shall, subject to item (iii), accept a handwritten signature;

(ii) may permit, instead of a handwritten signature, the use of other forms of signature, such as a printed or stamped signature, or the use of a seal or of a bar-coded label;

(iii) may, where the natural person who signs the communication is a national of the Contracting Party and such person's address is on its territory, or where the legal entity on behalf of which the communication is signed is organized under its law and has either a domicile or a real and effective industrial or commercial establishment on its territory, require that a seal be used instead of a handwritten signature.

(4) [*Signature of Communications on Paper Filed by Electronic Means of Transmittal*] A Contracting Party that provides for communications on paper to be filed by electronic means of transmittal shall consider any such communication signed if a graphic representation of a signature accepted by that Contracting Party under paragraph (3) appears on the communication as received.

(5) [*Original of a Communication on Paper Filed by Electronic Means of Transmittal*] A Contracting Party that provides for communications on paper to be filed by electronic means of transmittal may require that the original of any such communication be filed

(i) with the Office accompanied by a letter identifying that earlier transmission and

(ii) within a time limit which shall be at least one month from the date on which the office received the communication by electronic means of transmittal.

(6) [*Authentication of Communications in Electronic Form*] A Contracting Party that permits the filing of communications in electronic form may require that any such communication be authenticated through a system of electronic authentication as prescribed by that Contracting Party.

(7) [*Date of Receipt*] Each Contracting Party shall be free to determine the circumstances in which the receipt of a document or the payment of a fee shall be deemed to constitute receipt by or payment to the Office in cases in which the document was actually received by or payment was actually made to

(i) a branch or sub-office of the Office,

(ii) a national Office on behalf of the Office of the Contracting Party, where the Contracting Party is an intergovernmental organization referred to in Article 26(1)(ii),

(iii) an official postal service,

(iv) a delivery service, or an agency, specified by the Contracting Party,

(v) an address other than the nominated addresses of the Office.

(8) [*Electronic Filing*] Subject to paragraph (7), where a Contracting Party provides for the filing of a communication in electronic form or by electronic means of transmittal and the communication is so filed, the date on which the Office of that Contracting Party receives the communication in such form or by such means shall constitute the date of receipt of the communication.

*Rule 7*

*Manner of Identification of an Application  
Without Its Application Number*

(1) [*Manner of Identification*] Where it is required that an application be identified by its application number but where such a number has not yet been issued or is not known to the applicant or its representative, that application shall be considered identified if the following is supplied:

- (i) the provisional application number, if any, given by the Office, or
- (ii) a copy of the application, or

(iii) a representation of the mark, accompanied by an indication of the date on which, to the best knowledge of the applicant or the representative, the application was received by the Office and an identification number given to the application by the applicant or the representative.

(2) [*Prohibition of Other Requirements*] No Contracting Party may demand that requirements other than those referred to in paragraph (1) be complied with in order for an application to be identified where its application number has not yet been issued or is not known to the applicant or its representative.

*Rule 8*

*Details Concerning Duration and Renewal*

For the purposes of Article 13(1)(c), the period during which the request for renewal may be presented and the renewal fee may be paid shall start at least six months before the date on which the renewal is due and shall end at the earliest six months after that date. If the request for renewal is presented and/or the renewal fees are paid after the date on which the renewal is due, any Contracting Party may subject the acceptance of the request for renewal to the payment of a surcharge.

*Rule 9*

*Relief Measures in Case of  
Failure to Comply with Time Limits*

(1) [*Requirements Concerning Extension of Time Limits Under Article 14(2)(i)*]

A Contracting Party that provides for the extension of a time limit under Article 14(2)(i) shall extend the time limit for a reasonable period of time from the date of filing the request for extension and may require that the request

(i) contain an identification of the requesting party and the time limit concerned, and

(ii) be filed within a time limit which shall not be less than two months from the date of expiry of the time limit concerned.

(2) [*Requirements Concerning Continued Processing Under Article 14(2)(ii)*] A Contracting Party may require that the request for continued processing under Article 14(2)(ii)

(i) contain an identification of the requesting party and the time limit concerned, and

(ii) be filed within a time limit which shall not be less than two months from the date of expiry of the time limit concerned. The omitted act shall be completed within the same period or, where the Contracting Party so provides, together with the request.

(3) [*Requirements Concerning Reinstatement of Rights Under Article 14(2)(iii)*]

(a) A Contracting Party may require that the request for reinstatement of rights under Article 14(2)(iii)

(i) contain an identification of the requesting party and the time limit concerned, and

(ii) set out the facts and evidence in support of the reasons for the failure to comply with the time limit concerned.

(b) The request for reinstatement of rights shall be filed with the Office within a reasonable time limit, the duration of which shall be determined by the Contracting Party from the date of the removal of the cause of failure to comply with the time limit concerned. The omitted act shall be completed within the same period or, where the Contracting Party so provides, together with the request.

(c) A Contracting Party may provide for a maximum time limit for complying with the requirements under subparagraphs (a) and (b) of not less than six months from the date of expiry of the time limit concerned.

(4) [*Exceptions Under Article 14(3)*] The exceptions referred to in Article 14(3) are the cases of failure to comply with a time limit

(i) for which a relief measure has already been granted under Article 14(2),

(ii) for filing a request for a relief measure under Article 14,

(iii) for payment of a renewal fee,

(iv) for an action before a board of appeal or other review body constituted in the framework of the Office,

(v) for an action in *inter partes* proceedings,

(vi) for filing the declaration referred to in Article 3(1)(a)(vii) or the declaration referred to in Article 3(1)(a)(viii),

(vii) for filing a declaration which, under the law of the Contracting Party, may establish a new filing date for a pending application, and

(viii) for the correction or addition of a priority claim.

*Rule 10*

*Requirements Concerning the Request for Recordal of a License or for  
Amendment or Cancellation of the Recordal of a License*

(1) [*Content of Request*]

(a) A Contracting Party may require that the request for recordal of a license under Article 17(1) contain some or all of the following indications or elements:

(i) the name and address of the holder;

(ii) where the holder has a representative, the name and address of that representative;

(iii) where the holder has an address for service, such address;

(iv) the name and address of the licensee;

(v) where the licensee has a representative, the name and address of that representative;

(vi) where the licensee has an address for service, such address;

(vii) the name of a State of which the licensee is a national if he/she is a national of any State, the name of a State in which the licensee has his/her domicile, if any, and the name of a State in which the licensee has a real and effective industrial or commercial establishment, if any;

(viii) where the holder or the licensee is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;

(ix) the registration number of the mark which is the subject of the license;

(x) the names of the goods and/or services for which the license is granted, grouped according to the classes of the Nice Classification, each group preceded by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;



(xi) whether the license is an exclusive license, a non-exclusive license or a sole license;

(xii) where applicable, that the license concerns only a part of the territory covered by the registration, together with an explicit indication of that part of the territory;

(xiii) the duration of the license.

(b) A Contracting Party may require that the request for amendment or cancellation of the recordal of a license under Article 18(1) contain some or all of the following indications or elements:

(i) the indications specified in items (i) to (ix) of subparagraph (a);

(ii) where the amendment or cancellation concerns any of the indications or elements specified under subparagraph (a), the nature and scope of the amendment or cancellation to be recorded.

(2) [*Supporting Documents for Recordal of a License*]

(a) A Contracting Party may require that the request for recordal of a license be accompanied, at the option of the requesting party, by one of the following:

(i) an extract of the license contract indicating the parties and the rights being licensed, certified by a notary public or any other competent public authority as being a true extract of the contract; or

(ii) an uncertified statement of license, the content of which corresponds to the statement of license Form provided for in the Regulations, and signed by both the holder and the licensee.

(b) Any Contracting Party may require that any co-holder who is not a party to the license contract give its express consent to the license in a document signed by it.

(3) [*Supporting Documents for Amendment of Recordal of a License*]

(a) A Contracting Party may require that the request for amendment of the recordal of a license be accompanied, at the option of the requesting party, by one of the following:

(i) documents substantiating the requested amendment of the recordal of the license; or

(ii) an uncertified statement of amendment of license, the content of which corresponds to the statement of amendment of license Form provided for in these Regulations, and signed by both the holder and the licensee.

(b) Any Contracting Party may require that any co-holder who is not a party to the license contract give its express consent to the amendment of the license in a document signed by it.

(4) [*Supporting Documents for Cancellation of Recordal of a License*] A Contracting Party may require that the request for cancellation of the recordal of a license be accompanied, at the option of the requesting party, by one of the following:

(i) documents substantiating the requested cancellation of the recordal of the license; or

(ii) an uncertified statement of cancellation of license, the content of which corresponds to the statement of cancellation of license Form provided for in these Regulations, and signed by both the holder and the licensee.

Editor’s Note: the Model International Forms, which were presented together with Document TLT/R/DC/25 are reproduced on pages 49 to 117 of these Records.

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TLT/R/DC/25 Corr.  
March 24, 2006 (Original: English)

CORRIGENDUM TO DOCUMENT TLT/R/DC/25

*prepared by the Secretariat*

Rule 9(1)(i), (2)(i) and (3)(a)(i) should read as follows:

“contain an identification of the requesting party, the relevant application or registration number and the time limit concerned, and ...”.

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TLT/R/DC/26

March 25, 2006 (Original: English)

DRAFT RESOLUTION BY THE DIPLOMATIC CONFERENCE  
SUPPLEMENTARY TO THE SINGAPORE TREATY ON THE LAW OF TRADEMARKS  
AND THE REGULATIONS THEREUNDER

*Proposal by the Regional Group Coordinators  
on Behalf of the Regional Groups*

1. The Diplomatic Conference for the Adoption of a Revised Trademark Law Treaty, held in Singapore in March 2006, agreed that the Treaty adopted by the Conference would be named "Singapore Treaty on the Law of Trademarks" (hereinafter referred to as "the Treaty").

2. When adopting the Treaty, the Diplomatic Conference agreed that the words "procedure before the Office" in Article I(viii) would not cover judicial procedures under the Contracting Parties' legislation.

3. Acknowledging the fact that the Treaty provides for effective and efficient trademark formality procedures for Contracting Parties, the Diplomatic Conference understood that Articles 2 and 8, respectively, did not impose any obligations on Contracting Parties to:

(i) register new types of marks, as referred to in Rule 3, paragraphs (4), (5) and (6) of the Regulations; or

(ii) implement electronic filing systems or other automation systems.

Each Contracting Party shall have the option to decide whether and when to provide for the registration of new types of marks, as referred to above.

4. With a view to facilitating the implementation of the Treaty in Developing and Least Developed Countries (LDCs), the Diplomatic Conference requested the World Intellectual Property Organization (WIPO) and the Contracting Parties to provide additional and adequate technical assistance comprising technological, legal and other forms of support to strengthen the institutional capacity of those countries to implement the Treaty and enable those countries to take full advantage of the provisions of the Treaty.

5. Such assistance should take into account the level of technological and economic development of beneficiary countries. Technological support would help improve the information and communication technology infrastructure of those countries, thus contributing to narrowing the technological gap between Contracting Parties. The Diplomatic Conference noted that some countries underlined the importance of the Digital Solidarity Fund (DSF) as being relevant to narrowing the digital divide.

6. Furthermore, upon entry into force of the Treaty, Contracting Parties will undertake to exchange and share, on a multilateral basis, information and experience on legal, technical and institutional aspects regarding the implementation of the Treaty and how to take full advantage of opportunities and benefits resulting therefrom.

7. The Diplomatic Conference, acknowledging the special situation and needs of LDCs, agreed that LDCs shall be accorded special and differential treatment for the implementation of the Treaty, as follows:

(a) LDCs shall be the primary and main beneficiaries of technical assistance by the Contracting Parties and the World Intellectual Property Organization (WIPO);

(b) such technical assistance includes the following:

(i) assistance in establishing the legal framework for the implementation of the Treaty,

(ii) information, education and awareness raising as regards the impact of acceding to the Treaty,

(iii) assistance in revising administrative practices and procedures of national trademark registration authorities,

(iv) assistance in building up the necessary trained manpower and facilities of the IP Offices, including information and communication technology capacity to effectively implement the Treaty and its Regulations.

8. The Diplomatic Conference requested the Assembly to monitor and evaluate, at every ordinary session, the progress of the assistance related to implementation efforts and the benefits resulting from such implementation.

9. The Diplomatic Conference agreed that any dispute that may arise between two or more Contracting Parties with respect to the interpretation or the application of this Treaty should be settled amicably through consultation and mediation under the auspices of the Director General.

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TLT/R/DC/27

March 27, 2006 (Original: English)

## SECOND REPORT OF THE CREDENTIALS COMMITTEE

*prepared by the Secretariat*

1. The Credentials Committee (hereinafter referred to as "the Committee"), established on March 14, 2006, by the Diplomatic Conference for the Adoption of a Revised Trademark Law Treaty, met for the second time on March 27, 2006.
2. The Delegations of the following States, elected members of the Committee by the Diplomatic Conference, attended the meeting: Australia, China, Ghana, Iran (Islamic Republic of), Kyrgyzstan and South Africa (6).
3. The President of the Committee, elected by the Diplomatic Conference, was Mr. Hekmatollah Ghorbani (Iran (Islamic Republic of)). The Vice-Presidents, elected by the Diplomatic Conference, were Mrs. Grace Issahaque (Ghana), and Mr. Francisco Javier Mejía (Honduras).
4. In accordance with Rule 9(1) of the Rules of Procedure adopted by the Conference on March 14, 2006 (document TLT/R/DC/2; hereinafter referred to as "the Rules of Procedure"), the Committee examined the credentials and full powers received since its first meeting on March 16, 2006.
5. The Committee found in order:

as far as *Ordinary Member Delegations* are concerned,

(a) the *credentials* and *full powers* (that is, *credentials* for participating in the Conference and signing the final act as well as *full powers* to sign the treaty to be adopted by the Diplomatic Conference) of the delegations of the following 13 States:

Australia	Switzerland
Costa Rica	Togo
Latvia	Turkey
Mexico	Ukraine
Papua New Guinea	United States of America
Spain	Uzbekistan
Sudan	

(b) the *credentials* without *full powers* (that is, *credentials* for participating in the Conference and signing the final act only) of the delegations of the following 37 States:

Barbados	Kazakhstan
Bolivia	Lebanon
Burundi	Liberia
Cambodia	Libyan Arab Jamahiriya
Canada	Mongolia
Central African Republic	New Zealand
Chad	Norway
Chile	Panama
Comoros	Paraguay
Cuba	Peru
Djibouti	Philippines
Egypt	Saint Vincent and the Grenadines
Ethiopia	Saudi Arabia
France	Sri Lanka
Germany	Sweden
Guinea-Bissau	United Republic of Tanzania
Iceland	Viet Nam
Jamaica	Yemen
Jordan	

(c) the Committee took note of the fact that three delegations, namely the delegations of Hungary, Serbia and Montenegro and Slovenia, expressed the wish that they appear in paragraph 7(a)(ii) of the first report of the Committee, instead of paragraph 7(a)(i).

6. The Committee recommends to the Conference, meeting in Plenary, to accept the credentials and full powers of the delegations mentioned in paragraph 5(a), above, and the credentials of the delegations mentioned in paragraph 5(b), above, and to take note of the information contained in paragraph 5(c).

7. The Committee re-expressed the wish that the Secretariat should bring Rules 6 ("Credentials and Full Powers"), 7 ("Letters of Appointment") and 10 ("Provisional Participation") of the Rules of Procedure to the attention of the Member Delegations or the Observer Delegations not having presented credentials or full powers and of the representatives of Observer Organizations not having presented letters or other documents of appointment.

8. The Committee decided that a report on its meeting should be prepared by the Secretariat and issued as its report, to be presented by the President of the Committee to the Conference, meeting in Plenary.

9. The Committee authorized its President to examine any further communications concerning Ordinary Member Delegations, Special Member Delegations, Observer Delegations or Observer Organizations which might be received by the Secretariat after the

close of its second meeting and to report thereon to the Conference, meeting in Plenary, unless the President deemed it necessary to convene the Committee to examine and report on those communications.

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TLT/R/DC/28

March 27, 2006 (Original: English)

DRAFT OF THE SINGAPORE TREATY ON THE LAW OF TRADEMARKS  
DRAFT OF THE REGULATIONS UNDER THE SINGAPORE TREATY ON THE LAW  
OF TRADEMARKS AND DRAFT RESOLUTION BY THE DIPLOMATIC  
CONFERENCE SUPPLEMENTARY TO THE SINGAPORE TREATY ON THE LAW OF  
TRADEMARKS AND THE REGULATIONS THEREUNDER

*proposed to the Conference, meeting in Plenary,  
by Main Committees I and II*

The texts of the Draft of the Singapore Treaty on the Law of Trademarks, the Draft of the Regulations under the Singapore Treaty on the Law of Trademarks and the Draft Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations thereunder, proposed to the Conference, meeting in Plenary, by Main Committees I and II, are those that appear in documents TLT/R/DC/24, 24 Corr., 25, 25 Corr. and 26, subject to adding, in document TLT/R/DC/25, the following title to Rule 2(3): "Other Means of Identification".

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TLT/R/DC/29

March 27, 2006 (Original: English)

DRAFT FINAL ACT

*submitted to the Conference, meeting in Plenary, by the Steering Committee*

In accordance with the decisions by the Assemblies of the Member States of the World Intellectual Property Organization (WIPO) taken at their fortieth series of meetings (September 2004) and at their forty-first series of meetings (September 2005) and following preparations carried out by WIPO and the Government of Singapore, the Diplomatic Conference for the Adoption of a Revised Trademark Law Treaty was convened by WIPO and held in Singapore, from March 13 to [---], 2006.

The Diplomatic Conference adopted, on March [---], 2006, the Singapore Treaty on the Law of Trademarks, which was opened for signature on March [---], 2006.

The Diplomatic Conference also adopted, on March [---], 2006, a Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations thereunder.

IN WITNESS THEREOF, the undersigned, being duly authorized thereto, have signed the present Final Act in Singapore, on March [---], 2006:

[List of countries that will sign the Final Act]

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TLT/R/DC/30  
March 28, 2006 (Original: English)

SINGAPORE TREATY ON THE LAW OF TRADEMARKS,  
REGULATIONS UNDER THE SINGAPORE TREATY ON THE LAW OF  
TRADEMARKS AND RESOLUTION BY THE DIPLOMATIC CONFERENCE  
SUPPLEMENTARY TO THE SINGAPORE TREATY ON THE LAW OF TRADEMARKS  
AND THE REGULATIONS THEREUNDER

*adopted by the Diplomatic Conference on March 27, 2006*

Editor's Note: Document TLT/R/DC/30 contains the Singapore Treaty on the Law of Trademarks, the Regulations under the Singapore Treaty on the Law of Trademarks and Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder. It is reproduced on pages 7 to 117 of these Records.

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TLT/R/DC/31

March 28, 2006 (Original: English)

REPORT OF THE PRESIDENT  
OF THE CREDENTIALS COMMITTEE*prepared by the Secretariat*

Since the meetings of the Credentials Committee on March 16 and 27, 2006 (see documents TLT/R/DC/14 and 27), the full powers of the Delegations of Central African Republic, France, Peru and Uruguay, and the credentials of the Delegation of Brazil have been received.

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TLT/R/DC/32

March 28, 2006 (Original: English)

## FINAL ACT

*adopted by the Diplomatic Conference on March 27, 2006*

Editor's Note: Document TLT/R/DC/32 contains the Final Act. It is reproduced on page 213 of these Records.

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TLT/R/DC/33

March 29, 2006 (Original: English)

SIGNATURE  
OF THE SINGAPORE TREATY ON THE LAW OF TRADEMARKS*Memorandum by the Secretariat*

1. The following Delegations signed, on March 28, 2006, the Singapore Treaty on the Law of Trademarks: Austria, Belgium, Bosnia and Herzegovina, Burkina Faso, Central African Republic, Congo, Costa Rica, Croatia, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Dominican Republic, Estonia, France, Ghana, Guinea, Haiti, Italy, Kenya, Kyrgyzstan, Latvia, Lithuania, Madagascar, Mexico, Papua New Guinea, Portugal, Republic of Moldova, Romania, Senegal, Spain, Switzerland, Tajikistan, The former Yugoslav Republic of Macedonia, Togo, Turkey, Ukraine, United Kingdom, United States of America, Uruguay, Uzbekistan (41).

2. The Delegation of Luxembourg signed the Treaty on March 29, 2006, bringing the total number of States that have so far signed the Singapore Treaty on the Law of Trademarks to 42.

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TLT/R/DC/INF/1

January 23, 2006 (Original: English)

#### GENERAL INFORMATION

*Document prepared by the International Bureau*

Editor's Note: Document TLT/R/DC/INF/1 contained practical information concerning the venue and conference facilities of the Diplomatic Conference.

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TLT/R/DC/INF/2 Corr.

March 14, 2006 (Original: English)

#### CORRIGENDUM

#### VENUES OF MEETINGS AND LOCATION OF CERTAIN OFFICES

*prepared by the Secretariat*

Editor's Note: Document TLT/R/DC/INF/2 Corr. contained information on the venues of the various meetings and on the location of certain offices in the SUNTEC Conference Centre in Singapore.

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TLT/R/DC/INF/3

March 28, 2006 (Original: French/English)

LIST OF PARTICIPANTS

*prepared by the Secretariat*

Editor's Note: Document TLT/R/DC/INF/3 contains the List of Participants. It is reproduced on pages 511 to 557 of these Records.

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TLT/R/DC/INF/4

March 14, 2006 (Original: French/English)

OFFICERS AND COMMITTEES

*prepared by the Secretariat*

Editor's Note: Document TLT/R/DC/INF/4 contains the List of Officers and Committees. It is reproduced on pages 558 to 562 of these Records.

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TLT/R/DC/INF/5

March 28, 2006 (Original: English)

LIST OF DOCUMENTS

*prepared by the Secretariat*

Editor's Note: Document TLT/R/DC/INF/5 contains the List of Documents. It is reproduced on pages 216 to 219 of these Records.

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## **SUMMARY MINUTES OF THE CONFERENCE**

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PLENARY OF THE DIPLOMATIC CONFERENCE FOR THE  
ADOPTION OF A REVISED TRADEMARK LAW TREATY

President: Mr. Ambassador Burhan Gafoor (Singapore)

Secretary: Mr. Ernesto Rubio (WIPO)

First Meeting Tuesday, March 14, 2006 Morning
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Opening of the Conference

1. Dr. IDRIS (Director General of WIPO) welcomed the participants and referred to the draft Agenda contained in document TLT/R/DC/1 Prov. He stated that the draft Agenda would serve as a guide until the meeting reached the point of the adoption of the Agenda, which was item 4 of the draft Agenda.

Consideration and Adoption of the Rules of Procedure

2. Dr. IDRIS (Director General of WIPO) drew the attention of the Conference to document TLT/R/DC/1 Prov. containing the draft Agenda of the Diplomatic Conference. He turned to item 2 of the draft Agenda (Consideration and Adoption of the Rules of Procedure) and recalled that the Rules of Procedure of the Diplomatic Conference had been approved by the Preparatory Meeting for the Diplomatic Conference and that those Rules followed precedents of rules of procedure of earlier diplomatic conferences organized by WIPO.

3. The Rules of Procedure of the Diplomatic Conference were adopted as included in document TLT/R/DC/2 Prov.

Election of the President of the Conference

4. Dr. IDRIS (Director General of WIPO) asked for proposals in respect of item 3 of the draft Agenda, regarding the election of the President of the Conference.

5. Mr. GHORBANI (Islamic Republic of Iran), speaking on behalf of the Asian Group, submitted the proposal of that Group to nominate Ambassador Burhan Gafoor of Singapore for the Office of President of the Diplomatic Conference.

6. Mr. ADDOR (Switzerland), speaking on behalf of Group B, expressed support for the proposal made by the Delegation of the Islamic Republic of Iran on behalf of the Asian Group.

7. Mr. TOPIĆ (Croatia), speaking on behalf of the Group of Central European and Baltic States, expressed support for the proposal made by the Delegation of the Islamic Republic of Iran on behalf of the Asian Group.
8. Mr. AYALOGU (Nigeria), speaking on behalf of the African Group, said that the African Group seconded and endorsed the proposal to elect Ambassador Burhan Gafoor for the Office of President of the Diplomatic Conference.
9. Mr. OMOROV (Kyrgyzstan), speaking on behalf of the Central Asian, Caucasus and Eastern European Group, expressed support for the proposal made by the Delegation of the Islamic Republic of Iran on behalf of the Asian Group.
10. Mr. POUDEL (Nepal) supported the election of Ambassador Burhan Gafoor for the Office of President of the Diplomatic Conference.
11. Mr. MEJÍA GUEVARA (Honduras) said that the Delegation of Honduras and the other delegations from the GRULAC region supported the motion to elect His Excellency, Ambassador Burhan Gafoor, Permanent Representative of Singapore in Geneva, to be President of the Conference.
12. Dr. IDRIS (Director General of WIPO) noted that no other delegation wished to make a proposal.
13. The Conference adopted by acclamation the proposal of the Delegation of the Islamic Republic of Iran, speaking on behalf of the Asian Group, to have Ambassador Burhan Gafoor of Singapore elected as President of the Diplomatic Conference.
14. Dr. IDRIS (Director General of WIPO) asked Mr. Burhan Gafoor to take his seat on the podium.
15. The PRESIDENT thanked Dr. Kamil Idris, Director General of WIPO, for being with the Conference in Singapore. He said that the presence of Dr. Idris at the opening of the Conference was a signal of the importance of the Conference to WIPO and all Members of WIPO. He thanked the participants at the Conference, and all members of the regional groups and delegations that had expressed their support, for the confidence they had shown in him by entrusting him with the presidency. By way of introduction, he highlighted three points.
16. First, he announced that he would listen carefully to the views expressed by participants and that he would be guided by these views in building a consensus. He pointed out that, ultimately, the Conference belonged to the Member States of WIPO. The task of the presidency was to facilitate and lead the process of consensus building. The outcome of the Conference, however, depended on each individual participant. He therefore stated that he counted on the support of the participants at the Conference and thanked them in advance for the cooperation he was confident to receive.
17. He then emphasized that the participants had to pursue a clear objective for the Conference. The objective was to bring the Conference to a successful conclusion by adopting, in Singapore, a Revised Trademark Law Treaty (TLT), as expected by the

international community. He stressed the need to work together to accomplish this task for the benefit of all stakeholders in the trademark system-brand owners, consumers and Member States alike.

18. Finally, he expressed his attention to ensure efficient working during the Conference.

#### Consideration and Adoption of the Agenda

19. The PRESIDENT opened the discussion on item 4 of the draft Agenda, regarding the consideration and adoption of the Agenda.

20. The Agenda of the Diplomatic Conference was adopted as proposed in document TLT/R/DC/1 Prov.

#### Election of the Vice-Presidents of the Conference

#### Election of the Members of the Credentials Committee

#### Election of the Members of the Drafting Committee

21. The PRESIDENT turned to items 5 to 8 of the Agenda concerning the election of the officers of the Diplomatic Conference.

22. Mr. KWAKWA (WIPO) indicated that the informal consultations in respect of the composition of the Credentials Committee, the Drafting Committee, as well as Main Committees I and II were not yet complete. He proposed to return to items 5 to 8 of the Agenda at a future Plenary meeting of the Conference.

23. The PRESIDENT concluded that the Conference was not yet in a position to consider and make decisions on Agenda Items 5 to 8. He proposed to move to Agenda Item 10 regarding the Opening declarations by Delegations and by representatives of Observer Organizations, if there were no objections.

#### Opening Declarations

24. The PRESIDENT turned to item 10 of the Agenda (Opening declarations by Delegations and by representatives of Observer Organizations).

25. Mr. AYALOGU (Nigeria) asked for a short postponement of the hearing of opening declarations in order to complete consultations within the African Group.

26. The PRESIDENT proposed to begin with one or two opening declarations from those delegations which were ready to make them.

27. All delegations and representatives of Observer Organizations that took the floor expressed their gratitude for the enormous efforts undertaken by the Government of Singapore in hosting the Diplomatic Conference and for the kind hospitality extended to them. They expressed their warm congratulations to Mr. Burhan Gafoor for his unanimous election as President of the Diplomatic Conference, and their confidence that, thanks to his

competence and experience, he would lead the Conference to a successful result. In addition, they congratulated Dr. Kamil Idris, Director General of WIPO, and the staff of the International Bureau for the quality of the documents and the conference services.

28. Mr. GHORBANI (Islamic Republic of Iran), speaking on behalf of the Asian Group, stated that the Group attached particular importance to the Diplomatic Conference, the work of which would have specific long-term implications on each Member State. He recalled that, because of the flexibility shown by Member States, the deliberations in the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) had led to agreement on new measures responding to technological developments and facilitating the work of national Offices, and on the proposal to establish an Assembly of Contracting Parties.

29. He indicated that, notwithstanding the limited number of Contracting Parties to the TLT 1994, a broad number of countries were attending the Diplomatic Conference. He believed that this, in turn, would send out the message that, regardless of the interests in the issues raised by the Revised TLT, the negotiations at the Diplomatic Conference should be pursued in a manner that balanced the interests of all stakeholders involved. He underlined that the optional nature of many provisions of the Basic Proposal offered flexibility and room for policy decisions to be taken by developing countries in order to be able to develop compatible systems and narrow the existing gap between developing and developed countries. He believed that the strengthening of intellectual property (IP) infrastructures was one of the options which developing countries had at their disposal to enhance their involvement in the process. He stressed that the provision of assistance to developing countries through WIPO, or other possible alternatives, would contribute to close the gap between developed and developing countries and least-developed countries (LDCs).

30. The Delegate noted the necessity for all Member States and, in particular, developing countries, to balance their commitment to the current trademark system in order to encourage a more active participation in the development of the system. He held the view that, in view of the crucial role of trademarks in the economic development of Member States, the Basic Proposal should be reviewed in a way that facilitated the work of national Offices in developing countries.

31. He pointed out that the Asian Group, considering the achievements made in the SCT, believed that the negotiations at the Diplomatic Conference –with the cooperation and flexibility of all Member States– would yield positive results. He expressed the readiness of the Group to participate constructively in the deliberations at the Diplomatic Conference and to present individually the national positions on technical articles.

32. Mr. MEJÍA GUEVARA (Honduras), speaking on behalf of the Group of Countries of Latin America and the Caribbean (GRULAC), said that it joined other delegations in offering the President of the Conference its total support and cooperation in both the conduct and discussion of the different topics to be dealt with at the Conference. On behalf of GRULAC, it also thanked the honorable Government of Singapore for its significant collaboration in hosting the Diplomatic Conference and also for all the gestures it had made and service received by the members of the different delegations.



33. He said that, as a regional group, GRULAC would be keen to participate and cooperate within the framework of the discussions and debates held at the Conference, with a view to the successful final adoption of the Revised TLT. He also said that GRULAC was better able to contribute to that aim and to the ability of the Conference to produce a positive result and mutual benefits for all participating countries, as well as all the different actors involved in the process in general. GRULAC hoped that the negotiating process would generate results reflecting the balance, and mainly the equitable and tangible benefits for all participating countries, primarily for developing countries, of which GRULAC formed a part.

34. Mr. OMOROV (Kyrgyzstan), speaking on behalf of the Central Asian, Caucasus and Eastern European Group, announced that the Group was prepared to cooperate actively with all countries in order to achieve effective results at the Diplomatic Conference.

35. Mr. POUDEL (Nepal) said that, in Nepal, IP issues had not fully emerged yet even though domestic patent, industrial design, trademark and copyright legislation had already been enacted in 1937 and 1965 respectively. Being an LDC, Nepal had lagged behind in adequate infrastructure, expertise and capability to understand, implement and enforce the IP system. He pointed out that Nepal had had less access to financial and technical resources that were essential for the development of a functioning system. He indicated that a gradual increase in the number of patent, industrial design and trademark registrations had been observed in recent years and that it was the right time to develop institutions regarding IP policy, programs and activities. He said that training for advocacy and small and medium enterprises (SMEs), serving the dissemination of knowledge on matters and practices relating to intellectual property, had to be brought into focus. It was equally important to preserve and establish IP databases. He informed the Conference that a proposal on IP policies had already been prepared and submitted to the competent national authorities in Nepal for approval.

36. He expressed the view that the effective enforcement of actions relating to intellectual property was equally important. In Nepal, the Industrial Property Tribunal, the Copyright Court, appellate courts, the District Administration Office, customs and the police were involved in IP issues. He felt that these institutions would have to be equipped technically and financially for the effective and efficient enforcement of acts relating to intellectual property.

37. The Delegate informed the Conference that Nepal had already become a Contracting Party to the Berne Convention and the Paris Convention. The country was in the process of joining the Madrid Protocol and the Patent Cooperation Treaty. He pointed out that Nepal had obtained technical assistance from several institutions including WIPO for training, observation tours and institutional support. Nepal felt the need for assistance from multilateral, regional and bilateral agencies in developing an appropriate IP curriculum of training and academic courses, establishing institutions for creating and organizing training, formulating IP policy and legislation, preparing guidelines and manuals and developing human resources. The Delegate underlined that Nepal, being a Member of WIPO, had made tireless efforts for realizing the dynamic policies developed by that Organization. He believed that it was time for Nepal to vent its deepening concerns over the objectives of WIPO. He stated that Nepal would like to move ahead hand-in-hand with other members for fulfilling collective hopes and aspirations for the common goal.

38. Mr. ADDOR (Switzerland), speaking on behalf of Group B expressed confidence that, under the Presidency of Ambassador Gafoor, this first Conference in an Asian country concerning the establishment of an IP treaty would be a success. He expressed appreciation for the preparatory work carried out by the International Bureau of WIPO and said that Group B fully supported the objective set out by the Chairman to conclude the Conference with the adoption of a Revised TLT. Group B welcomed the text of the Basic Proposal for that Treaty, which resulted from four years of hard work at the SCT.
39. The Basic Proposal reflected the intention to maintain the existing provisions of the TLT, while modernizing that text and including additional features to make the Treaty more attractive to Member States. The text constituted a good basis for the work of the Conference. Therefore, he offered the full support of Group B towards constructive work at the Conference.
40. Mr. TOPIĆ (Croatia), speaking on behalf of the Group of Central European and Baltic States, expressed confidence that the participating delegations would be able to reach, in a timely and efficient manner, the objective of the Conference and assured the full support and commitment of that Group to approach the discussions in an active and constructive manner.
41. Mr. ULLRICH (Austria), speaking on behalf of the European Community, its 25 Member States and the acceding States, Bulgaria and Romania, expressed their gratitude to the Government of Singapore for the generous offer to host the Diplomatic Conference –the first Diplomatic Conference under the auspices of WIPO ever held in Asia. This initiative demonstrated not only the strong commitment of Singapore to the important issue of IP protection but also that the holding of the Diplomatic Conference and –hopefully the positive outcome–a “Singapore Treaty”– would be conducive to the awareness and promotion of trademark law and intellectual property, especially in the Asian region.
42. He said that the European Community had actively participated in the negotiations leading to the adoption of the Basic Proposal and the decision to convene a Diplomatic Conference, paying great attention to the harmonization of trademark law in general and especially to the simplification and streamlining of procedures for the benefit of users but also of offices.
43. In this regard he noted and appreciated that the European Community which maintains an office for the registration of marks –the Office for Harmonization in the Internal Market (Trademarks and Designs) in Alicante, Spain, was invited to participate in the Conference as a Special Member Delegation, and would also be entitled to become a party to the Treaty.
44. He added that the European Community, its Member States and the acceding States were looking forward to engaging and participating in a constructive, efficient and fruitful discussion. He also offered the European Community’s full commitment and cooperation for the success of the Diplomatic Conference.
45. Mr. PENN (Cambodia) said that Cambodia was pleased to have this opportunity to participate and contribute to the adoption of this international instrument. His Delegation also appreciated the efforts made by the SCT during the negotiation and drafting of the text of the Revised TLT. He held the view that participants were all aware of the significance of this hard work and strongly supported this Revised Treaty to be adopted as proposed.

46. As an LDC and a recent member of the World Trade Organization (WTO), Cambodia's IP system was still far behind the system of other advanced countries in the Asia Pacific region. Cambodia was still in the stage of capacity building of its human resources and enhancing the effectiveness of its IP system to be integrated and standardized at the international level. Cambodia acknowledged and expressed gratitude for the assistance provided by WIPO and other international organizations and wished to request further technical assistance for capacity building and IP public awareness, to be fully compliant with the TRIPS Agreement.

47. Cambodia realized the importance of trademark protection and its significance in business development. The Cambodian Trademark Law complied with the principles of the TRIPS Agreement. The Delegation of Cambodia had carefully studied the text of the Revised TLT and found that it was of great importance, as it facilitated the administration of trademarks and provided trademark owners with more simplified procedures. He expected to make use of the principles contained in this international legal framework for the adoption of national regulations dealing with the new and emerging trademark issues.

48. His Delegation recognized and honored the work of the SCT over seven sessions, to produce this new international legal instrument. Cambodia hoped that Member States would arrive at a consensus in the discussion and adoption of the Treaty, and reiterated its support for the Treaty as an international legal framework for the protection of trademarks.

49. Mr. REN (China) expressed the hope that the Conference would be a full success. He indicated that the Delegation of China sought to participate actively in the discussions and to contribute to their success. He was looking forward to participating with the other delegations in the Conference and to actively discussing the Basic Proposal. He hoped that the new Treaty would be adopted as soon as possible, since this would contribute to the harmonization and improvement of the protection of intellectual property.

50. Mr. AYALOGU (Nigeria), speaking on behalf of the African Group, recalled that the Member States of WIPO had decided at the 41<sup>st</sup> Series of their Assemblies in October 2005, to hold the present Diplomatic Conference, the objective of which is to upgrade the existing TLT. He believed that the TLT had greatly contributed to the harmonization and simplification of operations and procedures of trademark Offices, especially relating to registration and renewal of marks.

51. He pointed out, however, that societies were dynamic and that the laws governing their arrangements should also be elastic. The passage of time and advances in technology had revealed that the TLT neither addressed nor envisaged the rapid pace of progress that would be made in just a few years after its adoption, and hence, failed to anticipate the necessity of electronic filing of applications and registrations in the trademark field. The TLT therefore, contained some inherent deficiencies that created a dichotomy between the paper-based application that it represented, and the new mode of electronic-based processing of registration that modern applications required. The attempt to resolve such a deficiency therefore largely informed the necessity to adopt an updated treaty.

52. He noted that while they were participating in the Diplomatic Conference to negotiate a Revised TLT, for them the issue was one of implementation. A broad implementation of the Revised TLT would present new challenges to IP Offices in developing countries and LDCs.

Amongst those challenges were the technical software applications, which highlighted the reality of the digital divide between developing countries and LDCs. Included in such divide for Africa was the mainstreaming of SMEs and the informal sectors.

53. He further observed that African countries had taken the first viable step towards bridging the digital divide by launching the Digital Solidarity Fund (DSF) in Geneva in 2005, and that while they appreciated the ongoing technical assistance programs of WIPO, especially for developing countries and LDCs, they called for the broadening of such assistance both in scope and content, to enable their various countries to take advantage of the opportunities that were presented by the new challenges they faced.

54. The Delegate also indicated that development and the absence of development were not subjects of conjecture or dispute; instead they were matters of reality. A basis for understanding and appreciating that reality should first be established as a prerequisite for its amelioration. For African countries to adopt the proposed Treaty and apply it meaningfully and sustainably, they should be adequately empowered to do so. Hence, those countries proposed the following:

(a) provision of technical assistance in a targeted and sustained manner aimed at improving the infrastructures of national IP Offices especially in the area of information and communications technologies (ICT);

(b) training of personnel to enable national IP Offices to operate new systems and apply new technologies in order to improve efficiency and accommodate the requirements of users and demanders of their services;

(c) improving and upgrading of the trademarks capabilities of developing countries and LDCs in order to enable them to file applications and registrations of their nationals in developed countries;

(d) granting of longer compliance periods to developing countries and LDCs in the coming into force of the Treaty, as well as the acceptance of the continued operation side-by-side of both paper-based applications and electronic-based transactions;

(e) building core capacities of developing countries and LDCs in meeting the challenges posed by the adoption and application of other treaties relating to intellectual property, both in terms of legal competencies and technical capabilities; and

(f) granting of access to technologies especially relating to software and databases to developing countries and LDCs to enable them effectively to register trademarks emanating from their territories in the developed countries that would meet with the high standards of the latter.

55. The Delegate noted that one important feature of the Revised TLT was the establishment of an assembly of Contracting Parties. This aspect of the Treaty would enable Contracting Parties to adopt a flexible posture in the implementation mechanism of the Treaty and decision-making process. In that regard the following issues were central:

(i) effective and efficient protection of the cultural and traditional assets of African societies; especially those represented in the field of the performing arts, folklore and traditional knowledge which must be given priority by the international community;

(ii) protection of African countries' genetic resources within the context of the provisions of the Convention on Biological Diversity (CBD); and

(iii) comprehensive protection of traditional knowledge and folklore through the adoption of an international legal instrument as a basis for the development of the resources and assets of developing countries and LDCs.

56. The African Group wished to assure the Chairman of its readiness to contribute constructively to the negotiation process with the aim of achieving a positive outcome and conclusions that would meet the expectations of all those present at the Diplomatic Conference.

57. Mr. KARUNARATNA (Sri Lanka) said that he wished to associate himself with the statement made by the Delegation of the Islamic Republic of Iran, on behalf of the Asian Group. Being a State party to the TLT 1994, and a country that attached great importance to the IP system, Sri Lanka considered the proposed Revised Treaty as an instrument that was capable of contributing to the enhancement of the trademark system, both nationally and internationally, as well as to commercial and economic development in general, and for developing countries and LDCs in particular. He added that Sri Lanka committed its constructive participation in the deliberations and looked forward to the successful conclusion of the conference.

58. Mr. HEATH (Australia) said that the Diplomatic Conference represented the culmination of much dedication and hard work on the part of the International Bureau of WIPO, as well as its Member States. He noted that Australia was committed to a successful conclusion of the Conference and, like all Member States, it realized its importance in bringing about the advantages of a Revised TLT, not only for individual nations, but for the worldwide IP community. A strong, uniform trademark system would not just provide for the protection of brands, but would be equally important for economic development, by creating the right conditions for successful investment.

59. He noted that Australia's manufacturing sector was increasingly being driven by SMEs. Changes in technology and transportation meant that these small businesses can be exporters. Foreign trade was no longer the preserve of the large multinationals. In such an environment, it was all the more important to have a strong international trademark system that was as simple as one could make it. In that way, regardless of their location, small businesses could take advantage of international opportunities as they arose, confident that they understood what was required from them.

60. He noted that the Revised Treaty furthered that aim. Moreover, it struck the right balance of interests: it promoted simplicity and clarity in what owners can be required to provide to an office; it provided offices with flexibility and the information they needed for efficient processing; it protected the public interest, in providing a system that third parties

would find transparent, and it would finally give the flexibility to respond to the fast pace of change in the modern world, more easily accommodating further changes in market practice and technology as they arise.

61. The negotiated Treaty proposal, which promised to meet well its intended purpose, reflected the agreed position, upon the maximum requirements allowable under simplified and uniform administrative procedures for obtaining and maintaining trademark registration. The simplification of the Treaty text and movement of detail into the Regulations would facilitate a process of adaptation to any future changes that would become necessary as technology progresses. It would support the growth of electronic commerce and enable electronic filing of trademark applications and associated communications.

62. The Treaty proposal also provided, for the first time, for measures of relief when time limits have been missed and uniform arrangements for the recordal of trademark licenses. It had been mentioned at the SCT that both of those provisions were vital to users of the international trademark system and Australia strongly supported them. Australia also welcomed the other significant change to the Treaty: broadening its scope to cover non-visible signs. It was worth noting that just as the Treaty itself did not require the protection of any kind of mark, this change did not impose a requirement on members to extend their scope of trademark protection to non-visible signs. Rather, the new Treaty merely stipulated that if Member States chose to protect those signs, then the provisions of the Treaty should apply to them in the same way they apply to "traditional" signs.

63. He also said that members could now reap the benefits of the hard work that had already gone into the negotiations for the Treaty proposal. On the table were texts for both the draft Revised TLT, and the Regulations under the Treaty, completely free of reservations, agreed by all the parties involved. This was the result of hard work and carefully negotiated text. Australia believed that the importance of this achievement should not be overlooked as the Diplomatic Conference started. In the interests of fulfilling the objective of the conference, he considered that the complete and agreed proposal that was presented should be allowed to go forward with as little change as possible. Accordingly, he encouraged delegates to actively resist the temptation to propose changes to the text, other than those that clearly related to matters of substance and were of real importance to national systems.

64. Mr. DRISSI ALAMI (Morocco) said that his Delegation was sincerely happy that the Revised TLT would soon be successfully concluded, as the culmination of a long process, the fruit of several constructive debates and of collective commitment to the international efforts to harmonize and streamline the procedures relating to trademark registration formalities. He also emphasized that the Delegation of Morocco, which had taken an active part in the process to prepare the current Conference, greatly appreciated the scope and timeliness of the Revised Treaty which was designed to take into account the technological advances recorded throughout the past decade, in particular in the areas of telecommunications and IT, and to create an institutional framework to allow the adaptation of certain administrative elements governed by the provisions of the current Treaty.

65. The Delegation welcomed with satisfaction the normative approach adopted by the Revised Treaty, which was expressed through the creation of an assembly of Contracting Parties and Regulations, both of which undoubtedly provided added value and additional force. In the same vein, the Delegate said that Morocco appreciated the true value of the new

provisions relating to the electronic filing of applications for the registration of trademarks and related communications, pertaining to the formalities concerning the presentation of all kinds of marks and to those relating to the deferment measures provided for in case of the failure to observe certain deadlines. He added that it was precisely within the framework of the implementation of those provisions that the law relating to the protection of industrial property in Morocco had been amended for the purposes of bringing it into line with the provisions of the TLT.

66. The Delegation of Morocco wished to report on certain major developments that had occurred in Morocco recently in relation to industrial property. One of the salient facts was the entry into force, on December 18, 2004, of the new Law on Industrial Property No. 17/97. With the entry into force of this Law, industrial property in Morocco had launched a new phase of modernization providing firms with a legislative protection framework in compliance with international standards, in particular the provisions of the Agreement on Trade-Related Aspects of Intellectual Property (TRIPS). The year 2005 had been marked by the launch of new projects for modernization of the industrial property system in Morocco, which had led to amendment of Law 17/97, adopted by the Parliament on December 14, 2005. Furthermore, Law 31/05 amending and updating Law 17/97 contained provisions which strengthened the legal framework of industrial property in Morocco, in particular those relating to the system of opposition to trademarks, border measures and the introduction of a national register of geographical indications and appellations of origin.

67. Consequently, the Delegation considered that the general trend of the current Revised Treaty corresponded perfectly to the spirit of the reforms undertaken by Morocco with a view to the rapid adaptation of its legislative and regulatory framework to the new trends in the global economy. The Delegation concluded by reaffirming its determination to make a positive contribution so as to transform the Diplomatic Conference into a real forum for constructive dialogue which could produce concrete results.

68. Miss THWE (Myanmar) expressed support for the opening declaration made by the Delegation of the Islamic Republic of Iran on behalf of the Asian Group. She pointed out that Myanmar was an LDC and had been drafting new laws and regulations on the protection of IP rights in conformity with the TRIPS Agreement. She stressed that her country was in the process of adopting modern laws on trademarks as well as other areas with a view to the establishment of an efficient national IP system.

69. She felt that, although Myanmar had not yet enacted specific legislation on the registration of trademarks, there was a Registration Act allowing national and foreign trademark owners to register at the Office of the Registrar of Deeds. The Procedure to register at the Registration Office was simple. Once Myanmar enacted a new trademark law, a new procedure for the registration of trademarks would be implemented which was in line with the Paris Convention and the TRIPS Agreement. As Myanmar was currently receiving legislative advice on the drafting of IP laws from WIPO, the Delegate believed that her country would be able to consider the implementation of the provisions of the TLT into the draft law on trademarks.

70. She recalled that the TLT had only 33 Contracting Parties. The Basic Proposal before the Conference contained more flexible provisions regarding the formal registration requirements in all Member States and she expressed the hope that the draft Treaty would

appeal to more Member States and believed that the negotiations leading to the adoption of a Revised TLT would offer a good opportunity to explore the contents as well as the benefits of the Treaty. As the new Treaty was intended to harmonize and simplify the laws and procedures with regard to the registration of trademarks in Contracting Parties, it should be borne in mind that the adoption of the Treaty was a first step only and that universal participation in the Treaty was more important. The Delegate pledged the fullest cooperation and support of Myanmar with a view to the fruitful and successful completion of the Conference.

71. Mr. AL AANI (Syrian Arab Republic) expressed the hope that a Revised TLT would take into consideration the needs of developing countries. He supported the opening declaration made by the Delegation of the Islamic Republic of Iran on behalf of the Asian Group. The Syrian Arab Republic has taken many important steps to introduce new legislation on trademarks, industrial designs, and geographical indications, in addition to other initiatives taken with regard to international agreements concerning intellectual property and the Madrid Protocol. The Delegate informed the Conference that, in the course of this year, his country would prepare its accession to the Hague Agreement on the International Registration of Industrial Designs. He concluded by expressing the hope that the Conference would adopt a Revised TLT.

72. Mr. ALEINIK (Belarus) pointed out that, of the industrial property subject matter currently enjoying protection, the largest part was constituted by trademarks. In Belarus more than 7,000 applications were filed annually, in accordance with national and international procedures, for the registration of trademarks, and the number of applications filed increased by about nine per cent per year. Thus, trademarks were the most important component of industrial property and reliable protection for them was one of the priorities of the national protection system and IP management.

73. The Delegate explained that since 1993 a Law on Trademarks and Service Marks had been in force in Belarus and legal protection was granted for a trademark on the basis of its registration with the national authority or under international agreements to which Belarus was a party. The scope of the law also extended to service marks and collective marks. Belarus closely followed the development of the system of international IP protection and participated actively in international cooperation in that sphere. Based on the importance of the unification of the formal requirements for trademark registration, as established by national legislation, and also the simplification and harmonization linked to registration procedures, the legislation of the Republic of Belarus on trademarks was implemented in full compliance with the TLT.

74. He added that, taking into account the last 10 years of development in digital technologies and technical and telecommunication means, the Delegation recognized the need to revise the TLT and fully supported the Basic Proposal. He was sure that as a result of the Conference, a new "Singapore Treaty" would be approved and would become a reference point for further improvement of the system of trademark protection at both the national and international level.



75. Mr. OTIENO-ODEK (Kenya) said that Kenya recognized and underscored the role of trademarks in the trade relations between producers and consumers of goods and services. The role of branding and franchising in trade constitutes a valuable tool in the use of trademarks. Due to the importance of trademark protection, the Delegation of Kenya supported the initiative for the adoption of the Revised TLT.

76. He noted that the proposed Revised Treaty would facilitate electronic filing of trademark applications. This would require the automation of national trademark Offices and capacity building to enable such offices to have adequate infrastructure to implement the provisions of the Treaty. In this respect he expected that WIPO would continue its technical assistance and capacity-building activities in Kenya.

77. He also indicated that Kenya was a founding member of the Digital Solidarity Fund and was committed to ensuring the establishment of the necessary infrastructure to realize and implement the provisions of the Revised TLT. He expected that all delegations would engage in fruitful and successful deliberations.

78. Mr. KHAN (Pakistan) said that he expected that the Conference could consider the issues contained in the Revised TLT, a Treaty that ensured the simplification and harmonization of trademark procedures, and looked forward to arriving at consensus solutions on controversial issues if any.

79. Mr. GABUNIA (Georgia) commended the SCT for its work to complete the Basic Proposal for the draft Revised TLT. He noted that the conditions of globalization of the modern world, the unprecedented growth of trade between states and the removal of practically all barriers for the circulation of goods, highlighted the importance of IP issues, and particularly, trademark protection. In the framework of WIPO, the Madrid Agreement for the International Registration of Marks, and at the regional level the European system have largely harmonized national legislations, so that they do not differ significantly from one another, making those systems more user-friendly to the applicants. In this context his Delegation welcomed the initiative to adopt the Revised TLT.

80. Mr. ČADA (Czech Republic) said that the Czech Republic welcomed the adoption of the Revised TLT. He expressed the conviction that the Revised Treaty would further contribute towards worldwide harmonization and simplification of procedural rules for obtaining and administering trademark rights in the interest of all users of the trademark system.

81. He added that trademark protection enjoyed a long-standing tradition in the Czech Republic. In view of the growing importance of trademarks in international trade, the Czech Republic had always supported any initiative of WIPO to harmonize trademark laws at worldwide level. The Czech Republic was a member of all major international treaties in the field of trademark protection, including the TLT of 1994. The national trademark law fulfilled the commitments arising from those international treaties, as well as those in force in the European Community. The Czech Republic was willing to further harmonize its trademark legislation in accordance with international developments in this area. Therefore, his delegation was ready to cooperate in a constructive spirit to achieve the aim of the Conference.

82. Mr. ELJMAZI (the Former Yugoslav Republic of Macedonia) noted that during seven sessions, SCT members and observers invested great efforts in preparing numerous documents and made a significant contribution to the drafting of the Basic Proposal for a Revised Trademark Law Treaty. The result of all these efforts was the draft for a Revised TLT, the adoption of which would be a step forward in the simplification and harmonization of the formal requirements for filing of national and regional applications. This agreement will be expected to contribute to the promotion and facilitation of the protection of trademark rights in the national and international framework.

83. He noted that the Former Yugoslav Republic of Macedonia was not a member of the TLT of 1994. However, its national trademark legislation was largely harmonized with the proposed Revised TLT, which was another reason for it to quickly join the Revised TLT. This was envisaged in the National Program for the Approximation of Country Legislation to the *acquis communautaire* of the European Community.

84. The PRESIDENT adjourned the meeting.

Second Meeting Tuesday, March 14, 2006 Afternoon
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Election of the Vice-Presidents of the Conference  
Election of the Members of the Credentials Committee  
Election of the Members of the Drafting Committee

85. The PRESIDENT asked the Secretariat to announce the outcome of the informal consultations which had taken place the various elections.

86. Mr. KWAKWA (WIPO) announced that the results of such consultations were the following:

For Vice-Presidents of the Conference: Mr. Robert Ullrich (Austria), Mrs. Hou Liyie (China), Mr. Jairo Rubio Escobar (Colombia), Mr. Željko Topić (Croatia), Ms. Lynne Beresford (United States of America), Mr. Fumihiko Hayakawa (Japan), Mr. Roman Omorov (Kyrgyzstan), Mr. M'hamed Sidi El-Khir (Morocco), Mr. Usman Sarki (Nigeria), Mrs. Branka Totić (Serbia and Montenegro).

For the Credentials Committee, the proposed members were the following Delegations: Australia, China, Ghana, Honduras, Islamic Republic of Iran, Kyrgyzstan, South Africa.

For the Officers of the Credentials Committee: for President, Mr. Hekmatollah Ghorbani (Islamic Republic of Iran), and for Vice-Presidents, Mrs. Grace Issahaque (Ghana) and Mr. Francisco Javier Mejia Guevara (Honduras).

For the Officers of Main Committee I: for President, Mr. Li-Feng Schrock (Germany), and for Vice-Presidents, Mr. Volodymyr Zharov (Ukraine) and Mr. Mihály Ficsor (Hungary).

For the Officers of Main Committee II: for President, Mr. James Otieno-Odek (Kenya), and for Vice-Presidents, Mr. Robert Shorthouse (United Kingdom) and Mr. Hossein Panahi Azar (Islamic Republic of Iran).

For the Members of the Drafting Committee: Mr. Michael Arblaster (Australia), Ms. Wang Wei (China), Mr. Ragui El-Etreby (Egypt), Mrs. Victoria Dafaucé Menéndez (Spain), Ms. Lynne Beresford (United States of America), Mrs. Liubov Kiriya (Russian Federation), Mrs. Anne Coleman-Dunne (Ireland), Mrs. Jacky Deromedi (Monaco), Mr. Duncan Wearmouth (United Kingdom), Mr. Emmanuel Piaget (Switzerland), Mrs. Graciela Road D'Imperio (Uruguay).

For the Officers of the Drafting Committee: For President, Mrs. Graciela Road D'Imperio (Uruguay), and for Vice-Presidents, Mr. Michael Arblaster (Australia) and Mr. Emmanuel Piaget (Switzerland).

87. The PRESIDENT declared the proposals adopted by acclamation.

#### Opening Declarations (continuation)

88. The PRESIDENT explained that he would turn to item 9 of the Agenda (Consideration of the First Report of the Credentials Committee) after the Credentials Committee had undertaken the examination prescribed in Rule 9 of the Rules of Procedure. He then returned to item 10 of the Agenda (Opening declarations by Delegations and by representatives of Observer Organizations).

89. All delegations and representatives of Observer Organizations that took the floor expressed their gratitude for the enormous efforts undertaken by the Government of Singapore in hosting the Diplomatic Conference and for the kind hospitality extended to them. They expressed their warm congratulations to Mr. Burhan Gafoor for his unanimous election as President of the Diplomatic Conference, and their confidence that, thanks to his competence and experience, he would lead the Conference to a successful result. They also congratulated Dr. Kamil Idris, Director General of WIPO and the staff of the International Bureau for the quality of the documents and the conference services.

90. Mrs. MENJIVAR CORTÉS (El Salvador) recalled that the draft Revised TLT that was being examined was the product of a long process of technical work in the Standing Committee on Trademarks. Through its competent authorities and its private sector of trademark lawyers, the Government of El Salvador had found the draft to be a highly technical document, the aim of which was harmonization. On behalf of the Delegation of El Salvador, the Delegate expressed her sincere thanks to the WIPO international trademarks management team, the head of which was Dr. Ernesto Rubio, and the whole of his technical staff. Similarly, she expressed special thanks to Dr. Octavio Espinosa for the technical assistance provided throughout the whole period. Finally, she said that the contribution made by El Salvador to the draft Treaty would, in any case, be advisory in nature since the text made it possible to benefit from the flexibilities offered by the draft Treaty.

91. Mr. FICSOR (Hungary) said that Hungary fully associated itself with the opening declaration made by Croatia on behalf of the Group of Central European and Baltic States and with the opening declaration made by Austria on behalf of the European Community, its

Member States and the acceding States. He informed the Conference that Hungary had become a Contracting Party to the TLT in 1998 and had actively participated in the preparation of the Basic Proposal for the Conference and the overall process leading to the convening of this Diplomatic Conference. He underlined the importance of revising the TLT and expressed his belief that the simplification of procedural and formal requirements would further promote trademark protection on a global scale. Hungary therefore welcomed the convening of the Conference and hoped that it would lead to the adoption of a new Treaty.

92. Ms. KADIR (Trinidad and Tobago) expressed support for the statement made by the Delegation of Honduras on behalf of GRULAC. She pointed out that Trinidad and Tobago aimed to establish a knowledge-based society by the year 2020. There had been an active diversification of its economic base which had allowed an expansion of its manufacturing and service sector, as well as its energy sector. As these sectors continued to grow and expand, enterprises had learnt where their true value lay, namely in their intellectual capital. They had learnt that their identity and reputation were becoming focused and encapsulated in their trademarks and other advertising imagery.

93. The Delegate said that there was a real interest in seeking trademark protection in foreign markets, as relatively small enterprises sought to carve out their own market spaces and compete abroad. As many of them were relatively new to the strategic use of intellectual property, a further major encouragement was needed, such as the promotion of the strategic use of intellectual property through the streamlining and simplification of trademark procedures which was the very purpose of the Revised TLT. She noted that technology and even societal shifts may prompt further updates which she saw as underscoring the interdependence of treaties built ultimately for the benefit of mankind.

94. The Delegate said that Trinidad and Tobago, being aware of the difficulties faced by the users of trademark systems attempting to obtain registrations in other countries, welcomed the initiative to adopt a Revised TLT. The Basic Proposal envisaged the inclusion into the Treaty of some important provisions, such as norms on electronic filing of trademark applications and associated communications and provisions concerning the recordal of trademark licenses. She noted that consensus had already been achieved on a range of articles and rules. At present, Trinidad and Tobago was engaged in a revision of its trademark legislation. The present package of laws on trademarks would be repealed and replaced by a new trademark act. The Delegate informed the Conference that Trinidad and Tobago was a Contracting Party to the TLT. She felt that the revision of the TLT came at an appropriate time for her country. Trinidad and Tobago was committed to supporting the objectives of harmonization and sincerely hoped that these objectives would be achieved. She felt that, after years of discussions and hard work of WIPO and its Member States, a stage of negotiations had been reached which allowed for the successful conclusion of a new Treaty and pledged her country's support to achieve that purpose.

95. Mr. OMOROV (Kyrgyzstan) noted that Kyrgyzstan had become party to many treaties administered by WIPO, including the TLT. Kyrgyzstan attached great importance to the protection of IP rights, in particular, trademark rights. He expressed the view that the Basic Proposal was extremely important for his country, as a new Treaty would make it possible to harmonize legislation in the digital technology age. On the whole, Kyrgyzstan approved the

Basic Proposal because the main provisions were fully in line with its domestic legislation. The Delegate pointed out, however, that he might wish to make small elaborations on some parts of the proposed texts. He welcomed the cooperation for the adoption of a Revised TLT.

96. Mr. MARKOVIĆ (Serbia and Montenegro) expressed the belief that the Conference would considerably advance the effective protection of important industrial property rights, such as trademarks. He explained that Serbia and Montenegro had joined the TLT in 1998. In consequence, his country benefited from the positive effects of simple and uniform model international forms, and the simplification of formalities relating to trademark applications, the recordal of changes and the renewal of registrations. He felt that the further harmonization of trademark formalities was of utmost importance to trademark owners, their professional representatives and national and regional trademark Offices. Since the opening of the market and the privatization of domestic firms in Serbia and Montenegro, increasing importance had been attached to trademarks. The permanent increase in the number of trademark applications which had been filed by national and foreign applicants since 2000 reflected this trend.

97. The Delegate pointed out that Serbia and Montenegro had completed the process of bringing major IP laws into line with the legislation of the European Community and the TRIPS Agreement. Accordingly, Serbia and Montenegro supported the harmonization of trademark formalities as well as the future harmonization of substantial requirements of protection. The Delegate believed that the Diplomatic Conference would be successful and expressed his determination to make substantial efforts to contribute to this success.

98. Mr. GHORBANI (Islamic Republic of Iran) informed the Conference that his country had undertaken considerable work to update its national IP laws, in particular trademark laws. The Islamic Republic of Iran, recently, acceded to the Lisbon Agreement. A draft bill on patents, industrial designs and trademarks was under consideration in parliament. Its ratification was expected for the near future. The Delegate pointed out that his country was an active member of the Madrid Agreement Concerning the International Registration of Marks and the related Madrid Protocol, as well as the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods. Accordingly, the Islamic Republic of Iran attached great importance to the Revised TLT. In view of its implications, it was of the opinion that the resulting text should be a balanced one.

99. The Delegate stressed that the protection of trademarks was an essential requirement for the economic development of Member States. It was quite clear that trademarks, like any other IP rights, were an integral component of economic development, the protection of which had to be considered a *conditio sine qua non* for sustainable economic development. This correlation was not a linear one, as there were a large number of variables, such as, in particular, different levels of development that gave the relation a particular dynamism. He held the view that any norm setting and standardization of laws and regulations by WIPO in the field of IP rights, accordingly, should be done following a holistic approach ensuring that resulting protection systems would not hinder development programs in developing countries. He explained that, for this reason, his country believed that due consideration had to be paid to unequal levels of economic development in any campaign for the harmonization of laws and regulations through the adoption of universal documents. Otherwise, the whole process may prove to have limited effect or even be counterproductive. It was unfortunate that developing countries were less active users of marks.

100. The Delegate added that, regardless of the interrelation between trademarks and general public policies, a developed IP infrastructure had to be established at the national level to allow Member States to make use of the system. The draft Treaty under discussion should not only provide for such capacity-building assistance to developing countries and LDCs but also avoid imposing any extra expenses on these countries in connection with its implementation. Social and economic costs arising from enforcement of any new international regulation in the field of IP rights, even if merely being of a formal nature, had to be minimized so that developing countries were assured that advantages of the enforcement of new regulations outweighed their disadvantages.

101. He clarified that the general objective of harmonization and the present draft Treaty in particular were based on the notion of the facilitation and simplification of the work of national Offices with regard to the registration of trademarks. He expected that the draft Treaty would accelerate and facilitate the work of offices in developing countries. The provisions of the draft Treaty should have an encouraging rather than a deterrent effect. The substance of the draft Treaty, accordingly, should be balanced so that it would facilitate the work of developing countries with regard to their interactions with the offices in other Member States.

102. He saw the Conference as a turning point in many respects. It was for the first time that an assembly would be established in the context of the TLT. Provisions concerning new types of marks, as well as electronic filing, were introduced, and the recordal of licenses was incorporated into the draft Treaty as well. He considered the recognition of electronic filing, regardless of its optional nature, as a step towards the establishment of a system that was more cost-effective and less time-consuming than paper-based systems. He emphasized that the technical needs of national Offices in developing countries and LDCs, as well as applicable bureaucratic procedures, required that necessary assistance be provided in order to enable these countries to keep pace with new developments and to meet their commitments. Side effects of norm setting in this area should also be balanced. The Delegate pointed out that many new types of marks evolving from advanced technologies were quite new to most developing countries and LDCs. He thus warned of difficulties in the process of harmonizing trademark laws and pointed out that the particularity and optional nature of such types of marks should be highlighted in the outcome of the Conference. He highly appreciated the commitment of WIPO to assist Member States in the promotion of their IP infrastructures, and to ensure that developing countries would be provided with adequate technical assistance, commensurate with their national development needs and requirements.

103. The Delegate said that, considering the low percentage of developing countries and LDCs having participated in the course of negotiations in the SCT, all attending delegations should show flexibility during the deliberations at the Conference in order to achieve the maximum result and a balanced text. As the Rules of Procedure had clarified the process of negotiation, the work should be managed in a way that small delegations had the chance to follow the deliberations in parallel sessions. He expressed the hope that the Conference, taking into account the basic challenges faced by developing countries, would yield fruitful results for all.

104. Mr. BAROUNI (Tunisia) said that intellectual property played an ever more important role in Tunisia as a result of its impact on economic, industrial, social and cultural development in the country. He added that the new Tunisian industrial property legislation

had had significant positive effects, as evidenced by the noticeable development recorded in the past few years in the protection offered by patents and trademarks. He specified that the system of opposition and conciliation for the deposit and registration of trademarks, set up under the new legislation, had generated important benefits for parties to disputes, in particular as regards the saving of time, energy and costs inherent in possible recourse to judicial proceedings. In this regard, Tunisia attached priority to the promotion of such activity through the implementation of relevant treaties and the adoption of appropriate measures, by introducing a global strategy aimed at developing and promoting the activities of the different partners in the IP sphere, such as in the scientific research sector, the craft sector, and the SMEs operating in all fields of activity.

105. The Delegate noted that the changes that had occurred in Tunisia during the past few years with regard to intellectual property had created new momentum for all interested parties and, in that connection, he emphasized that it had become necessary to preserve such achievements and to develop the activity further. Consequently, he wished to introduce a program of cooperation and assistance as part of WIPO's activities for the economic development of developing countries. In conclusion, the Delegation of Tunisia wished to participate actively in the work of the Diplomatic Conference and hoped to achieve a consensus for the implementation of the Treaty.

106. The Delegate of Tunisia added that his Delegation supported the statement made by the Delegation of Nigeria on behalf of the African Group.

107. Mr. ALEMU (Ethiopia) stated that Ethiopia fully endorsed the importance that the adoption of a Revised TLT would have for brand owners, IP Offices and national economies. However, he shared the concern expressed by the Delegation of Nigeria on behalf of the African Group with regard to the implementation of the Treaty. Ethiopia recognized the importance of intellectual property as a tool for economic development. It had succeeded in setting up a relatively comprehensive and functional national IP framework in less than a decade. Ethiopia also acknowledged the importance of linking national and international IP systems. The Delegate referred to studies that had already been conducted with regard to a number of international instruments to which his country sought to accede. Ethiopia closely followed developments occurring at the international level and benefited from the international work when drafting domestic IP legislation. The Delegate gave the example of the work in the SCT leading to a revised text of the TLT. This work had been used while drafting trademark legislation that, presently, was under consideration before the parliament of Ethiopia.

108. The Delegate emphasized that Ethiopia faced a number of challenges. These included the building of appropriate administrative and enforcement capacity for the effective protection of IP rights as well as compliance with obligations that the country may assume when joining international IP instruments, such as a Revised TLT. The Delegate thus wished to request WIPO and its developed Member States to render assistance in building the necessary capacity. Ethiopia had already witnessed the potential of such assistance when establishing its domestic IP system in less than a decade. He pointed out that this goal could not have been achieved without generous assistance from WIPO and other regional and national IP Offices.

109. The Delegate was confident that further capacity building support would enable his country to effectively link its national system with the international system and to fulfill obligations, such as those envisaged under the Basic Proposal now before this Conference.

110. Mr. AMOUSSOU (Benin), speaking on behalf of the Group of Least Developed Countries (LDCs), said that the Group was grateful to the WIPO Member States that had agreed to approve the proposal to reduce the costs borne by applicants from the LDCs, at the time of submission of international trademark registration applications, which had entered into force as of January 1, 2006 within the Madrid system. He emphasized the importance of the current Diplomatic Conference, given the major role played by intellectual property in the economic, social and cultural development of a country, and in attracting foreign investors. The adoption of a TLT was therefore essential for the LDCs.

111. The Delegate considered that the Conference was taking place at the right time, when the international environment was focused ever more closely on technology and the adaptation, even of legal structures in the LDCs, to the current context proved to be essential. The revision of the TLT in force was designed specifically to adapt the Treaty to the technological progress made during the past 10 years. In that regard, on behalf of the LDCs, he welcomed the efforts made by the SCT. Those efforts had led to the successful preparation of the Basic Proposal for a Revised TLT, submitted for examination by the Member States.

112. He stated that the LDCs supported the Basic Proposal but that they did, however, reserve the right to make amendments, given that they must take into account their respective individual characteristics, in particular as regards the implementation of the Treaty. In conclusion, he said that the Group of LDCs supported the statement made by Nigeria on behalf of the African Group and he reaffirmed his commitment to the work being done as part of the negotiations in progress on the Revised TLT.

113. Mr. SIMONOV (Russian Federation) indicated that his Delegation was ready to participate actively in the work undertaken in this Diplomatic Conference. He recalled that the Basic Proposal for the Conference had been prepared as a result of three years' work done by the SCT. The Committee members were specialists in the field of legal protection of trademarks coming from many countries in the world, including the Russian Federation. As was known, a particular contribution had been made to the work by the representatives of intergovernmental and international non-governmental organizations.

114. The Delegate pointed out that the TLT, to which the Russian Federation had been a party for almost 10 years, influenced the improvement of its domestic legislation and the harmonization of the legislation of countries which were party to the TLT. In 2002, amendments had been made to the Russian law on trademarks and provisions from the TLT had been incorporated including those relating to the division of trademark applications and registrations, the possibility of providing a general power of attorney for the conduct of Office procedures, and the possibility for an applicant, prior to a refusal decision being taken by the Office, to submit comments which may influence that decision.

115. He explained that, in the Russian Federation, more than 40,000 trademark registration applications were filed annually, of which 15,000 were by applicants from countries which were party to the Treaty. A Revised TLT would surely have even greater practical significance as a regular stage in the harmonization of national trademark legislation in



relation to administrative procedures. In the context of market globalization, a new treaty would help to reduce expenses incurred in administrative procedures for entrepreneurs, trademark owners and consumers, which on the whole would have a positive effect on the development of international trade and serve the advancement of innovation processes.

116. The Delegate underlined that it was very important to include in a Revised TLT the provisions concerning the establishment of the Assembly of Contracting Parties. The creation of the Assembly would simplify the procedure for introducing amendments into the regulations, without the need to hold a Diplomatic Conference. That would provide an opportunity to reflect in operational terms, in the regulations, the provisions dictated by the practical application of the Treaty. In conclusion, he expressed certainty that the Conference would be successful.

117. Mr. TAKAAKI (Japan) pointed out that, with economic globalization and increasingly competitive international markets, companies had to conduct business activities at a faster pace. He informed the Conference that the number of trademark applications in Japan had been increasing since 2003. In 2005, there had been an increase of five per cent and a total number of about 135,000 applications. Filings by foreign applicants had increased recently. The previous year, Japan had received about 20,000 applications from foreign applicants which constituted about 15 percent of all applications filed with the Japanese Patent Office in that year. The number of applications filed by Japanese with other countries had been growing at about eight per cent. This growth rate was larger than the growth of domestic application filings. One fourth of the applications filed by Japanese applicants served the purpose of obtaining a trademark right in another country. The large number of such applications seemed to indicate that more Japanese and foreign users were actively trying to establish high-value international brand names and to obtain protection under different national trademark systems.

118. In Japan, the relevant government ministries and agencies had been working together to enhance the protection of IP rights and to enhance the industry's global competitiveness through the creation, protection, and exploitation of intellectual property. Japan viewed the trademark system as an important IP system which could allow a company to acquire distinctiveness in order to attract customers and dispense information. The role of the trademark system in the development of branding strategies was currently under discussion in Japan.

119. The Delegate informed the Conference that, in 2005, Japan partially revised its Trademark Law to introduce a regionally-based collective mark system aiming to promote local specialty products. Under this system, domestic as well as foreign local associations could register trademarks combining a regional name with a product name. The trademark needed to be well-known to some extent and had to be recognized as having distinctive features in Japan. He said that Japan sought to finalize the implementation of this system by April 1, 2006.

120. He explained that, in 1990, the Japanese Patent Office had introduced a paperless system aiming to simplify the filing of applications, reducing costs and shortening the average examination period. At present, 83 percent of all trademark applications were filed electronically. In 2005, the Office of Japan had begun to accept applications filed via the Internet.

121. The Delegate added that, due to economic globalization, it was essential to help users to quickly obtain trademark protection in various areas of the world. He felt that the best way to simplify application procedures in different countries was to conclude a harmonization treaty and promote accessions to that treaty. The TLT constituted such a user-friendly treaty. Japan had been the seventh Contracting Party to the TLT.

122. The Delegate stated that, in principle, Japan supported the Basic Proposal for a Revised TLT to be adopted at the Conference because it enhanced user-friendliness and served the simplification and harmonization of procedures. He expressed the hope that a new treaty would be adopted at the Conference.

123. Mr. MTESA (Zambia) expressed his Delegation's support for the opening declarations made by Nigeria on behalf of the African Group and by Benin on behalf of the Group of LDCs. Being an LDC, Zambia appreciated the support received from WIPO and, as its development partners, hoped that this support would continue so that the use of patents and trademarks for the economic and social development of the country could quickly be perfected. The Delegate expressed his willingness to participate in the deliberations of this Conference in order to ensure the successful conclusion and adoption of a new treaty.

124. Mrs. EL TINAY (Sudan) expressed her Delegation's support for the opening declaration made by the Delegation of Nigeria on behalf of the African Group. She indicated that the adoption of a new Treaty aiming to facilitate procedures for applicants, was a great challenge for developing countries and LDCs in view of the progress made in communication technology in the last 10 years. If the new Treaty became binding within a prescribed period of time, Member States might need to make reservations that might help them to implement the Treaty into their national legislation. In this respect, the digital divide between developed and developing countries, especially the African countries facing many obstacles and difficulties, should be taken into account.

125. The Delegate underlined that Sudan was trying to overcome these obstacles. Considering the limited resources available to the country, however, she felt a need for assistance, for instance, with regard to office equipment and the adoption of strategies for setting up successful, independent national Offices taking on the various responsibilities accounted upon them. She stressed that, in order to further increase the capabilities of developing countries, present assistance programs should be continued. Her aim was to bring about a gradual change leaving sufficient flexibility for the Sudan Intellectual Property Office which still worked on the basis of paper documents.

126. Mrs. RÍOS DE DAVIS (Panama) said that her Delegation hoped to see the fruits of the collective effort producing results that generated benefits for all those involved. She added that in particular the improvements to the trademark system with regard to its modernization through the electronic filing of applications and to the simplification of procedures and processes would make those procedures faster and more efficient. On the basis of information technologies, Panama was making firm progress in allowing the filing of online applications, thereby benefiting to the maximum from the advantages offered by such a technology. However, the Delegation of Panama was aware that differences still existed in the practice of WIPO Member States, for which reason the necessary flexibilities should be granted along with access for countries that required it so that, in the short term, those countries could adjust to the new trends in technology by means of the support and technical assistance that could be

provided for them. She recalled that new ideas were currently emerging and that intangible assets such as human resources, collective work and knowledge etc. were of great importance. She added that IP Offices were centers of knowledge which had a passion for their work, in addition to sharing their ideas for tangible business purposes.

127. Mr. RAMÍREZ BATHEL (Dominican Republic) said that for the Dominican Republic the discussion and adoption of the Revised TLT represented a great advance for intellectual property, since it had a message and great significance for the owners or future owners of trademark registrations. He added that all nations were celebrating the holding of the Diplomatic Conference of WIPO Member States and, above all, the decisions that could be taken at the Conference. The Delegation of the Dominican Republic wished to convey to the President of the Conference its collaboration and support in order to achieve harmonization and consensus that benefited all countries, especially developing countries. He also expressed the view that the transparency, simplification and swiftness of procedures, together with the guarantee of IP rights, constituted development and trust, and would therefore be discussed with a view to retaining what was best in that Treaty.

128. Mr. SADER (Uruguay) said that Uruguay supported the Basic Proposal for the Revised Trademark Law Treaty. He added that the content of the draft that had been consulted extensively with the national private sector was in line with and complementary to Uruguay's domestic legislation. The Delegation of Uruguay considered that the Revised Treaty would be a relevant and effective international instrument for various reasons: firstly, it was a modern and flexible instrument that took into consideration states' national legislation. Secondly, it further strengthened the system of trademarks, simplifying and harmonizing the requirements of form which were currently hampering administrative procedures and, undoubtedly, would therefore facilitate international trade and would be a development instrument. Thirdly, the draft attempted to keep pace with the technological advances being generated in the sphere of information technology and telecommunications, by including provisions on the electronic filing of trademark registration applications and related communications, and also included provisions relating to compensation measures in the case of failure to meet deadlines. Fourthly, for the first time it established requirements relating to the registration of trademarks of different kinds, both visible and non-visible. Finally, the new Treaty provided for the creation of an assembly which filled a significant gap in the TLT, by following the structure of other WIPO-administered treaties. In conclusion, the Delegate assured the President that he could count on the support of the Delegation of Uruguay with a view to generating the necessary consensus for the adoption of the Treaty.

129. Mr. MATONDO MA MUANDA (Democratic Republic of Congo) said that his Delegation endorsed the stipulations and other relevant proposals contained in the statements made by the Delegations of Nigeria and Benin on behalf of the African Group and the Group of LDCs respectively. He added that the Democratic Republic of Congo wished once again to renew its obvious interest in WIPO's activities, given that intellectual property also represented a daily concern for the activity of its Government, despite major problems and other multisectoral difficulties linked to the process of national reconstruction in progress.

130. The Delegate specified that in the Democratic Republic of Congo, matters relating to intellectual property were governed by Law No. 82/001 of January 7, 1982 on Industrial Property and Order No. 89/173 of August 7, 1989 on Measures for Enforcing Said Law. Those texts had been devised in accordance with the relevant provisions of the international

legal instruments of WIPO governing intellectual property. The two national legal texts were currently unsuited to present technological developments, despite the subsequent establishment of the Industrial Promotion Fund. That lack of suitability justified still further the need to adopt a revised international treaty on trademark law.

131. The Delegate said that his Delegation was ready to make its modest contribution to a successful conclusion of the relevant debates, i.e. the actual adoption of the Revised TLT, giving due consideration to the obvious interests of all parties and above all to the specific realities of each Contracting Party. The Delegation firmly believed that at a time when counterfeiting was becoming a source of friction, or even tension, between member partners of the international community, the actual adoption, following the current Diplomatic Conference, of a Revised TLT should be perceived as offering prospects for hope allowing all parties concerned to obtain protection, and also to benefit in a lawful and fair manner from the fruits of the labors of their inventors and other respective innovators within a globalized economy.

132. Mr. DANILIUC (Republic of Moldova) said that the Republic of Moldova supported the objective of the Revised TLT to achieve the modernization and simplification of administrative procedures for the registration of trademarks and thus guarantee an effective and equal involvement of states in the field of new technologies. He welcomed these new provisions which constituted effective instruments for the economic development of states. The harmonization of IP rules encourages investment, by reducing the risk of having to face different rules in different jurisdictions. In addition, the proposed Treaty included harmonized rules regarding the formalities for the recordal of trademark licenses, which made it more attractive both for users and for national Offices.

133. He recalled that the Republic of Moldova was one of the first signatories of the TLT and therefore its national trademark law was harmonized with that instrument. He noted that more than 80 percent of trademark applications received by the national Office came from foreign applicants. This reflected the importance of having national trademark laws harmonized with international standards, such as the TLT. Therefore, he hoped that the proposed revision of the Treaty could be achieved by this Conference.

134. Mr. HYON IL (Democratic People's Republic of Korea) referred to other WIPO treaties in the area of trademarks, such as the Madrid Agreement for the International Registration of Marks and to the current initiative for the harmonization and simplification of trademark law at the international scale. He noted that the Government of the Democratic People's Republic of Korea had achieved significant progress in the field of trademarks, and his Delegation wished to take this opportunity to acknowledge the cooperation received from WIPO in the area of trademarks.

135. Mr. ARAGA (Papua New Guinea) said that his Delegation supported the statement made by the Delegation of the Islamic Republic of Iran on behalf of the Asian Group. His country attached great importance to the protection of IP rights and that had prompted national authorities to engage in continuing policy discussions to help synthesize issues of importance to the region, taking into account the national needs and circumstances in determining future directions, programs and activities to the needs of the trademark owners as well as trademark Offices.

136. He noted that intellectual property continued to be used in many countries as a policy instrument and as a tool for economic, social and cultural development, and had become an issue that attracted global attention given the immense importance of intellectual property, which played a leading role in supporting the efforts of Member States, in particular those of developing countries and LDCs, to foster the conditions necessary to encourage creative and innovative activity. With the objective of enhancing its capacity in the field of intellectual property, the IP Office of Papua New Guinea had been empowered to develop and implement the country's IP policy.

137. He acknowledged that the work of the SCT on the Basic Proposal would form the basis for the development and streamlining of the trademark systems among the Member States. This was also a challenge for developing countries and LDCs, which were required to develop trademark systems for sustainable economic development and wealth creation as well as to meet the current international norms and practices.

138. He explained that Papua New Guinea had undertaken the review and amendment of its trademark legislation with a view to complying with international norms and standards and to provide for the efficient processing of trademark applications. He hoped that this would allow Papua New Guinea to adhere to the TLT in a not-too-distant future. He therefore pledged his full support in reaching a productive and fruitful conclusion and subsequent application of the Revised TLT.

139. Mr. NOAM (Israel) said that Israel was aware of the continuous need for improvement of the IP services provided by the national government through its national Office. He announced that the Government of Israel had recently decided to change the status of the Israeli Patent, Design and Trademarks Office from a governmental unit in the Ministry of Justice into an independent authority working as an executive agency, the first of its kind in Israel. This was an important and substantive change that would enable the Israeli Patent and Trademark Office to provide better services both for local and foreign users, due to enhanced management power and flexibility.

140. He highlighted that trademark protection was one of the leading branches of industrial property activity. The fast and expanding development of industry all over the world was dependent on a developed, harmonized and user-friendly trademark registration system. An analysis of trademark developments in Israel during the last 10 years indicated a direct correlation between the economic situation in Israel and in the entire world, as to the amount of trademark applications filed.

141. He noted that while in times of crisis, such as in the year 2003, the number of trademark applications in Israel had declined to 7,000 it had stabilized and expanded to 9,000 during 2005. An outstanding trend, reflecting the nature of global commerce, was the increase in the number of trademark applications from foreign companies applying for registration in Israel (about 70 percent of all applications filed). This illustrated the need for a Revised TLT to simplify and harmonize the administrative procedures relating to trademark registrations.

142. He further noted that the international aspects of trademark protection had encouraged the process of accession of Israel to the Madrid Protocol for the International Registration of Trademarks, expected to be concluded by the end of 2006. Israel was thus in favor of the successful conclusion of the Revised TLT which would simplify and harmonize the administrative procedures with respect to national applications.

143. Miss KADRI (Algeria) said that her Delegation supported the statement made by the Delegation of Nigeria on behalf of the African Group, since it expressed perfectly the concern of their respective countries. She added that Algeria had followed with great interest the work done to prepare the Revised TLT. She also specified that although the 1994 Treaty in itself did not contain binding provisions for Algerian legislation which was in the process of being revised, questions linked to certain concepts, notions and procedures should have been covered by or included in the Treaty. Algeria therefore wished to make the Treaty more flexible and accessible to all, taking into account the national legislation and protection systems adopted by each country, as well as the economic reality and means of all countries. The Delegate emphasized the fact that the Treaty should be adapted to economic reality, that it should take into account the development of industrial property law and that it must provide a balance between the rights of owners and those of users. She added that the harmonization of procedures undoubtedly made it easier to obtain protection without making the system cumbersome or neglecting the interests of applicants. In conclusion, the Delegation of Algeria hoped that the Diplomatic Conference for the adoption of a balanced and flexible treaty would be a complete success.

144. Mr. SIBANDA (ARIPO) noted that ARIPO is an intergovernmental organization charged with the harmonization, promotion and development of intellectual property among its Member States. Currently 16 States were party to the Lusaka Agreement, which established the Organization: Botswana, The Gambia, Ghana, Kenya, Lesotho, Malawi, Mozambique, Namibia, Sierra Leone, Somalia, Sudan, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.

145. He said that the protection of IP rights in Member States of ARIPO was enhanced through protocols that established procedures enabling multi-country protection through a single application deposited with the central authority or through individual Member States.

146. In the field of trademarks, a centralized registration system for protection in designated states was provided for under the Banjul Protocol. The Protocol was adopted by the Organization's Administrative Council and currently eight states had ratified or acceded to the Banjul Protocol, namely: Botswana, Lesotho, Malawi, Namibia, Swaziland, Uganda, Tanzania and Zimbabwe.

147. Efforts were being made to ensure that all Member States became party to the Banjul Protocol as well as to ensure that the Banjul Protocol was more attractive and user-friendly. Within the African context, mutual recognition of ARIPO and OAPI trademark applications was also under consideration and once accepted it would indeed facilitate and simplify the implementation of the Revised TLT itself. The Banjul Protocol was concluded during the negotiations on the TLT and it was adopted with the view to complete the cycle of harmonization of industrial property by the Organization and achieve self-sustainability by generating revenue for the Organization and its Member States.

148. During its eighteenth session, held in Kampala, Uganda, from November 14 to 18, 1994, the Council of ARIPO recommended that the Secretariat should review the Banjul Protocol in the light of the TLT of 1994. Consistent with that recommendation, the Secretariat followed closely the developments and deliberations of the SCT, where the TLT was a topical Agenda item.

149. Having followed closely the deliberations of the TLT, which led to a revised text of the TLT for adoption at the current Diplomatic Conference, it was in ARIPO's interest to ensure that Member States became signatories to the Revised TLT to enable complementarity between the Banjul Protocol and the new international instrument. It was also the vested interest of the Organization to ensure that its status was elevated and afforded membership status in the Revised TLT to enable its full participation in a similar manner as obtains under the Patent Cooperation Treaty (PCT). The current Diplomatic Conference would therefore be called upon to determine ARIPO's status in the final text of the Treaty.

150. He acknowledged that ARIPO's attendance at the Conference as a special member delegation was already a clear indication of ARIPO's support towards African initiatives aimed at improving the business environment in Africa through a harmonized international legal framework on the protection of trademarks.

151. Mr. YACOUBA KAFFA (OAPI) said that OAPI, which grouped together 16 African states, intended to participate in a constructive and dynamic manner in the work of the Conference. He added that OAPI would also like to invite the different delegations to give greater consideration to the technological differences and unequal possibilities between the different parties. To do that, he said that OAPI considered it useful for the Revised TLT to be characterized by flexibility.

152. Referring to the statement made by Nigeria on behalf of the African Group, he recalled the need for effective assistance and sound cooperation with a view to assisting developing countries and LDCs to satisfy their future obligations within the framework of the Treaty and also of other IP treaties.

153. All those countries experienced multiple difficulties but positive signs existed which gave reason for hope. In that regard, for example, OAPI had developed a database, software for managing and processing trademark registration applications, and technological tools allowing the remote processing of data relating to such applications. He added that other applications were in progress and that in the near future they would allow electronic filing. Furthermore, he specified that, in September 2005, OAPI had inaugurated a regional training center for member countries and for other African countries. However, other challenges existed because even if OAPI as an office was able to follow developments using its own means, it was necessary to take into account its environment made up of Member States that had extremely limited resources.

154. Mr. WARDLE (New Zealand) said that New Zealand was pleased to support the aims of the TLT to simplify and harmonize trademark registration procedures. New Zealand broadly supported the basic text of the Revised Treaty that had been developed by the SCT through a process of consensus. The Revised Treaty should carefully balance the interest of countries, trademark Offices, trademark owners and third parties, and New Zealand considered that the basic text achieved this balance.

155. He also said that trademark law and practice that was aligned with internationally recognized standards could increase the confidence of businesses transacting across international borders, and could assist to reduce trade barriers and business administrative and compliance costs. This was especially important for New Zealand businesses. Like many small countries, New Zealand's economy was primarily made up of small business enterprises. Its economic development was dependent on the ability of these small businesses to successfully compete in the global economy. Intellectual property rights, such as trademark protection, assisted in supporting their success.

156. He noted that, as part of the New Zealand Government's ongoing efforts to create an environment for sustained economic growth within New Zealand, it was considering a number of ways to reduce the costs for businesses of applying for maintaining trademark registrations. The creation of efficient and effective registration procedures was an important element that could contribute to economic development. Just a week before, the Government announced the commencement of a project to consider New Zealand's accession to both the TLT and the Madrid Protocol.

157. New Zealand considered that it was important that the Revised TLT should define international best practices in respect of the procedures for registering trademarks and, therefore, be a model for all countries to base their trademark registration procedures upon. Creating such a treaty should not, however, be an exercise in making the Revised Treaty conform to the procedures and practices of any one particular country.

158. Finally, he acknowledged the way Member States had been able to work together in an environment of cooperation and in the spirit of friendship and goodwill within the SCT to arrive at the basic text that was presented to the Conference. He hoped that this spirit of cooperation and friendship would also prevail during this meeting, as delegations worked their way towards the adoption of a Revised TLT.

159. Ms. BERESFORD (United States of America) recalled that work on the TLT began in 1987 with the adoption by the Governing Bodies of WIPO of a proposal to begin work on the harmonization of trademark law and practice. The first Committee of Experts met first in 1989 and met six times between 1989 and 1993. A Diplomatic Conference was held in October of 1994 and at that time 35 countries, including the United States of America, signed the concluded Treaty. The TLT 1994 had been a great success and the United States of America had made it a high-level priority with its trading partners.

160. She noted that, to the extent that national Offices could make the process of obtaining and maintaining a trademark more efficient and increase the legal certainty that comes from having a registration in WIPO Member States, governments could help trademark owners with their efforts to prevent consumer confusion and deception, as well as protect their valuable property interests. The TLT helped offices to become more efficient and allowed them to reduce fees.

161. The Basic Proposal presented to the Conference set out to achieve those purposes and she hoped that delegations could move the text forward to adoption by keeping the goals of this effort in mind. However, the TLT's benefits could not be fully realized by users and officers without broader membership. The United States of America was fully committed to encouraging wider adherence to the TLT and she believed that the Revised TLT provided



additional incentives for WIPO members to sign up for its benefits. The Delegation of the United States of America looked forward to working with all delegations to ensure a positive step forward for trademark owners and trademark Offices with the adoption of a final Revised TLT that epitomized efficiency, fairness, transparency and certainty.

162. Mr. CHUNG (Republic of Korea) wished to inform the Conference that in the current year, the Government of the Republic of Korea had set itself the ambitious goal to take first office actions on trademark applications within six months from the filing date, which meant that its Office could grant trademark registrations more rapidly than ever before. Bearing in mind that user-friendliness was a prime philosophy embodied in the TLT, the Government of the Republic of Korea believed that the expedition of trademark examination was crucial to accomplish that TLT philosophy. About 20 percent of all trademark applications every year were foreign applications.

163. He believed that, by speeding up trademark registrations, foreign enterprises and applicants would see a better environment for their businesses in the Republic of Korea. In concluding, he believed that the user-friendliness philosophy of the TLT would ensure a successful adoption of a Revised TLT.

164. Mrs. POWER (Canada) said that, as commercial markets become increasingly global, the issue of harmonization and international standards was important for both governments and users of the trademark system. Canada attached considerable importance to multilateral efforts to harmonize and standardize business framework laws and practices.

165. She noted that Canada was supportive of the efforts of WIPO to conclude a treaty that will reduce or minimize procedural differences among countries, particularly in relation to the development of standards relating to electronic communications and the general simplification of formal procedures in the area of trademarks. She felt that the efforts of delegations at the present Conference and the efforts of the SCT over the last four years would benefit users seeking trademark protection around the world and would also lead to greater efficiencies for trademark Offices. The current text of the provisions of the Basic Proposal provided a solid basis for consideration by the Conference and the Delegation of Canada was prepared to participate in a constructive fashion to work towards the successful completion of the final Treaty.

166. Mr. PARKES (FICPI) said that the International Federation of Intellectual Property Attorneys (FICPI), broadly represented the profession in private practice in countries throughout the world. He noted that FICPI had been involved in the preparations made over the past four years leading to the proposal for the revision of the TLT. FICPI had been pleased to participate in the sessions of the SCT and looked forward to seeing the completion of the project at this Conference. He believed that the adoption of the Treaty and then ratification or accession by a large number of countries, would certainly provide very worthwhile benefits to users of the trademark system.

167. He recalled that, on a technical issue, FICPI had made some suggestions concerning the draft Model International Forms which are attached to the Regulations in document TLT/R/DC/4. These forms were not discussed in detail at the SCT and FICPI had therefore prepared a paper setting down some suggestions, which were largely of a drafting nature. This paper had been made available for delegates at the Conference.

168. Ms. HAQ (INTA) declared that INTA had been a strong supporter of the TLT and welcomed the timely revision of the Treaty that would take into account advances in technology and global developments in trademark protection over the last decade. For many years, INTA had worked closely with WIPO to move international trademark practices and procedures closer to harmonization. One of the most important initiatives by WIPO in this regard was the effort to address the harmonization of formalities of national Offices, which resulted in the TLT 1994. INTA had dedicated considerable resources and expertise to support the work of WIPO on this initiative and on the subsequent proposed revision of the TLT.

169. She noted that a revision of the TLT appeared urgently needed because the scope and practice of trademark protection had changed over the years. The re-opening of the Treaty to create an assembly, update its provisions to cover non-visible signs and allow electronic filing as well as to include provisions on trademark licensing, should spur renewed interest so that INTA and other organizations could encourage more WIPO members to join the TLT. INTA therefore applauded the work of the SCT on revising the TLT and assured its continued support for this important initiative and for a successful conference.

170. Mr. BAOLIN (CTA) said that, as an observer organization, the CTA supported the work of participating delegations for the success of the Diplomatic Conference.

171. The PRESIDENT set out a proposal for a working schedule of different bodies of the Conference during the first week. He noted that, generally speaking, there were two clusters of issues. Firstly, horizontal issues which cut across the whole draft Treaty, such as: implementation, capacity building, cooperation and flexibilities. On such issues, the President would undertake informal consultations with the different regional groups and report back to the Plenary, without prejudice to any decision on the final outcome of the discussions. The second cluster included technical issues relating to the substantive provisions of the draft Treaty and its regulations. On these issues, both Main Committees I and II would engage in deliberations.

172. Mr. GHORBANI (Islamic Republic of Iran) said that, while he agreed with the arrangements proposed by the President, it was important not to lose sight of the fact that this was a package negotiation.

173. The PRESIDENT adjourned the meeting.

Third Meeting Friday, March 17, 2006 Afternoon – 17:00 hrs.
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#### Consideration of the First Report of the Credentials Committee

174. The PRESIDENT invited the Plenary to proceed with the remaining items on the Agenda. He turned to Agenda Item 9 (Consideration of the First Report of the Credentials Committee). He explained that the Conference was required by the Rules of Procedure to consider the first report of the Credentials Committee soon after the opening of the Conference. He called upon the President of the Credentials Committee, Mr. Ghorbani, to present his report.

175. Mr. GHORBANI (Islamic Republic of Iran) informed the Plenary that the Credentials Committee had held a first meeting on March 14, 2006, to address the three categories of participants, namely ordinary member delegations, special member delegations and intergovernmental and non-governmental organizations. All issues had been addressed in accordance with the Rules of Procedure that had been approved on the first day of the Diplomatic Conference. He specified that, until now, the Credentials Committee had received 37 full powers and 43 credentials. The Committee was in the process of receiving more full powers and credentials which would be duly reflected in the second report of the Credentials Committee.

176. The PRESIDENT thanked Mr. Ghorbani and the members of the Credentials Committee for establishing the first report. He underlined that there were 37 delegations which had full powers to sign the Treaty at the end of the Diplomatic Conference, and 43 delegations which had come with credentials. He said that the number of delegations with full powers and credentials sent out a clear signal of their commitment and the general commitment of the Conference to signing and adopting the Revised TLT. He believed that the Conference was within grasp of a successful conclusion of its work. He proposed to adopt the first report of the Credentials Committee.

177. Mr. MARKOVIĆ (Serbia and Montenegro) said that his Delegation did not have full powers to sign the Treaty and that it was authorized only to sign the Final Act of the Conference. He therefore asked the International Bureau to make a correction to that effect.

178. Mr. FICSOR (Hungary) said that the same situation had arisen with regard to his Delegation. The Delegation of Hungary did not have full powers either.

179. Mr. OUBEIDILLAH (Comoros) said that his Delegation had a credentials letter which gave it the power to sign any act that would commit the Comoros within the framework of the Diplomatic Conference. Furthermore, he noted that the Comoros was not yet included in the report and so he wished to obtain assurance from the International Bureau that it would appear in the forthcoming report among the delegations that had full powers to sign the Treaty.

180. Mr. WARDLE (New Zealand) noted with respect to paragraph 7(a)(ii) of document TLT/R/DC/14 that New Zealand had presented its credentials without full powers to WIPO on or about January 9, 2006. He pointed out that the name of his Delegation was missing from the list. He therefore requested that the credentials presented by New Zealand be reviewed.

181. Mr. MATONDO MA MUANDA (Democratic Republic of Congo) said that his Delegation had a document entitled "Full powers" and specified that it had the power to sign the Final Act and initial the Treaty.

182. Mr. MAHINGILA (United Republic of Tanzania) noted that the name of his Delegation was missing from the list. As his Delegation had submitted its credentials in the meantime, he asked for their inclusion.

183. Mr. MARTENS (Germany) said that the same situation had arisen with regard to the Delegation of Germany. He was confident that this would be corrected.

184. Mr. ENÄJÄRVI (Finland) pointed out that the Delegation of Finland was intended to have full powers. He said that, if necessary, the Ministry of Foreign Affairs of Finland could send a clarification to that effect.

185. Mr. AUMEISTERS (Latvia) noted that the Delegation of Latvia had full powers for signing the Final Act and the Treaty. He had already consulted the President of the Credentials Committee in this regard. The question was under consideration by the Credentials Committee.

186. The PRESIDENT asked the International Bureau to take note of the different comments made by delegations. He clarified that it was the intention of the International Bureau and the Conference to look through all the papers with care and diligence. Any corrections that had to be made would be made in due course. He invited the International Bureau to comment on the observations made by delegations.

187. Mr. KWAKWA (WIPO) drew the attention of the Plenary to the fact that the first report of the Credentials Committee, as reproduced in document TLT/R/DC/14, had been established two days before. Accordingly, the report only reflected credentials and full powers that had been received until then. Delegations whose credentials had been received later would be included in the second report of the Credentials Committee. In respect of countries whose understanding was that they had credentials and not full powers, he clarified that the International Bureau would follow the Rules of Procedure that had been established for previous diplomatic conferences, and the practices of previous credentials committees to determine the intended scope of their instruments.

188. He explained that if their instruments were deemed full powers, the International Bureau would include them in the full powers category. He clarified that, in this event, being placed in the full powers category did not oblige the delegation concerned to sign the Treaty if that was not the intention. It simply indicated that, if they decided to sign the Treaty, they had the ability to do so. Delegations placed in the credentials category did not have this flexibility. They would only be able to sign the Final Act, unless they subsequently produced full powers. He invited any delegations that had a different understanding of their instruments

to contact the International Bureau in order to discuss the matter. There would certainly be a second report of the Credentials Committee. Delegations could thus indicate their intentions to the International Bureau. In case their instruments were consistent with past practice, the International Bureau would be prepared to change the first evaluation of the instrument concerned.

189. The PRESIDENT suggested that note be taken of the various requests for corrections, and invited delegations to approach the International Bureau directly in order to make known any corrections that were needed. He proposed to adopt the first report of the Credentials Committee on the understanding that under Agenda Item 12 the Plenary would consider a second report, which would offer a further opportunity to revisit the issue.

190. Mrs. ESTUPIÑÁN BARRANTES (Ecuador) asked what legal effects the signing of the Final Act would have for a state that had credentials but did not have full powers.

191. Mr. KWAKWA (WIPO) clarified that the Final Act constituted a factual statement saying that between March 13 and 31, the delegations represented at the Conference met in Singapore and that they negotiated and adopted the Revised TLT. The Final Act did not have any legal effect or any legal implications.

192. The PRESIDENT concluded that the Plenary had adopted the first report of the Credentials Committee. He turned to Agenda Item 10 (Opening declarations by Delegations and by representatives of Observer Organizations).

#### Opening Declarations

193. The PRESIDENT recalled that the Plenary had already heard the opening declarations of several delegations in the course of past meetings. Other delegations had indicated their desire to make their opening declarations at a later stage. On that basis, he invited delegations to deliver further opening declarations.

194. Ms. SUNKER (South Africa) expressed support for the statement made by the Delegation of Nigeria on behalf of the African Group. She said that the Diplomatic Conference was being held in the context of dynamic changes in the international economic system characterized by, among other things, rapid advances in technology. Hence, she conceived of the need to revise the TLT 1994 to enable it to respond to those advances. Participants had embarked on this initiative conscious of the different levels of development of Member States and within the broader discourse towards addressing the widening gap between the rich and the poor. The Millennium Development Goals and, in particular, the recently concluded World Summit on the Information Society (WSIS) all remind participants of the need to address the widening digital divide. Therefore, as the Conference finalized the Revised TLT, it should continue to pursue these broader development objectives.

195. Despite the fact that globalization had created an enabling environment for technological advancement, the technological gap between developed and developing countries continued to widen. More importantly, this technological gap had not been informing policy formulation at the international level. Global requirements demanded that developing countries, particularly LDCs that were mostly in Africa, expand and strengthen their IP system. These requirements could be burdensome and costly to implement and yet

their benefits were not immediately evident in the eyes and experiences of the poor. These matters had to remain of paramount concern to all and should motivate members to seek effective solutions.

196. She noted that the Revised TLT will respond to technological developments and create an institutional framework allowing for the adaptation of certain administrative requirements. The TLT contained some inherent deficiencies that created a dichotomy between the paper-based application and the new mode of electronic-based registration that modern applications require. But in addressing this deficiency through the Revised TLT, the Conference should avoid articulating that dichotomy in a way that will further entrench the exclusion of the poor.

197. Much had been said by developing countries in the context of the WIPO General Assemblies' last session about the need to include a development agenda in the norm-setting processes of WIPO. The Revised TLT afforded members the opportunity to respond to that imperative. The Treaty should also be underpinned by effective technical assistance and technology transfer provisions geared towards ensuring that Member States would be able to implement Treaty obligations and benefit effectively from its provisions. In this respect the implementation of Treaty obligations should not overburden scarce national resources that may be employed more productively in other areas.

198. She concluded by saying that the Delegation of South Africa looked forward to a good decision from the Diplomatic Conference. The decision should be based on consensus and it should address the interests and concerns of all members equally. The need for policy space and flexibilities along with appropriate differential and favorable treatment for developing countries and, in particular, the LDCs was paramount. For her Delegation those principles lay at the heart of WIPO's continued credibility. She gave assurances of her Delegation's readiness to contribute constructively to the negotiation process with a view to achieving a positive outcome and conclusions that met with the expectations of all parties present.

199. Mr. AL-MOHAMMED (Iraq) recalled that the first legislation in human history was drafted in Mesopotamia and dated back to the eighteenth century B.C. It was known to all as the Code of Law of Hammurabi, the King of Babylonia. In 1921, the modern State of Iraq, which inherited the ancient civilizations of Mesopotamia, was established, following the fall of the Ottoman Empire. In 1931, the first Iraqi Trademark Law (No. 39) was enacted and was subsequently replaced by a new Law (No. 21) of 1957 on Trademarks and Commercial Indications. The latter had since been amended on various occasions.

200. He noted that, as of March 19, 2003, trademark registrations in Iraq totaled 42,000. In addition, some 5,000 registrations had been made between June 1, 2003 and end 2005. In 2004, Iraq had adopted a policy of open market economy and worked towards its accession to the World Trade Organization (WTO), where it obtained observer status in 2004. As the adoption and implementation of a trademark law compatible with relevant international standards is one of the pre-requisites for accession to the WTO, a High National Committee was established in order to develop a draft Consolidated Intellectual Property Law which was soon to be submitted to the Iraqi Parliament.

201. He further noted that the participation of the Delegation of Iraq in the Conference would be an opportunity to review the draft Law prior to its promulgation. As a developing country, Iraq shared the concerns of other developing countries with regard to the need for a balance between the interests of both developed and developing countries. In order for Iraq to implement international standards, support and assistance in capacity-building were needed for a successful administration of procedures for the registration of trademarks. He hoped that WIPO could join donor countries in responding to those needs.

202. Mr. NEBIE (Burkina Faso) said that Burkina Faso had followed with particular interest the work of the seven sessions of the SCT. In that regard, he congratulated the WIPO Director General, Dr. Kamil Idris, on the relevance of the Basic Proposal, and also the members of the SCT on the quality of the work done since 2002. He added that he was particularly happy to note that the current Diplomatic Conference benefited from significant participation by delegations of several countries and representatives of a considerable number of international organizations.

203. The situation unquestionably demonstrated all the interest which the international community attached to the need for balanced international regulations in trademark law, owing to the importance of the matter in the general framework of an ever more competitive global economic system.

204. As to the Basic Proposal being considered by the Conference, Mr. Nebie expressed the satisfaction of his Delegation that the draft text of the Revised Treaty took into consideration several points that he considered to be particularly important. The draft Revised Treaty and the Regulations thereunder were balanced and promising instruments, even though, moreover, efforts must still be made to take account of certain sensitive issues of interest to developing countries, owing to the need for broader accession to the future Treaty.

205. In similar vein, he pointed out that the Delegation of Burkina Faso associated itself with the statements made by Nigeria and Benin, on behalf of the African Group and the Group of LDCs respectively. He was convinced that the consideration given to the concerns expressed in their statements would guarantee broader accession and satisfactory implementation of the future Revised TLT, to which the name of the pleasant city of Singapore would forever be attached.

206. In conclusion, he said that his Delegation would spare no effort in providing its support so that the Revised TLT would be finalized at the end of the work, and added that the President could rest assured that the Delegation remained entirely available to work in coordination with his personal efforts throughout the negotiations.

207. Mr. AYALOGU (Nigeria) assured that his Delegation would participate in the negotiating process with an open mind and a constructive disposition in order to reach a positive outcome. His Delegation fully endorsed the statement made by the coordinator of the African Group and hoped that it would constitute the basis of the Group's consultations, especially with the various stakeholders in this Conference, on the issues that the President had referred to as "horizontal matters". These horizontal matters, in his view, were those issues that cut across individual interests and concerns, and were of an overarching nature bordering on the problem of implementation of the Revised TLT, and the full realization of the opportunities that the new Treaty provided to individual Member States.

208. He noted that the main areas of concern to developing countries and their LDC counterparts on entry into force of new treaties were those related to their sustained and effective implementation, and the ability to make use of the in-built opportunities and policy space. The successful domestication of treaties and their effective implementation were, more often than not, linked to the availability of juridical competence and technical resources in such countries. These perceived shortcomings should be addressed constructively by all Contracting Parties.

209. He further noted that the goal of every society was to modernize and improve. Nigeria was no exception to this rule. Its goal was therefore, to be at the forefront of the IP appreciation and utilization effort, especially for national development. It was for this reason that the Government of Nigeria had been cooperating closely with WIPO over the years to profit from the benefits of its experience and the resources at its disposal. Nigeria was in the processes of modernizing its IP infrastructures especially for the protection of cultural industries, traditional resources and biological endowments. It was also modernizing and diversifying the entire spectrum of its economy, thereby moving away from traditional industries, notably oil and gas, into the innovation-driven sectors based on SMEs. It was also in the process of restructuring its informal sector with a view to its modernization especially through access to bank loans and credits and the application of IP-based systems.

210. He said that the role of intellectual property in this and other processes could not be under-estimated. Trademarks for instance, when effectively utilized, could serve as a means of popularizing Nigerian brand names in the performance industries, culture and traditional knowledge-based industries, SMEs, and the modern service sector. Intellectual property could also serve as a launching pad for Nigerian companies that wish to engage in exporting their products to other markets and enable them to compete effectively, all adding value to Nigeria's development efforts, including poverty alleviation and creation of employment opportunities. He quoted the Director General of WIPO, when he said that the simplification and harmonization of processes and procedures in trademark applications would enable national companies to take advantage of the new opportunities offered by the global application of a uniform IP regime and increase their share of the markets.

211. Trademarks had been used in Nigeria for many years. They were governed by the Trademark Act 436 of 1990. The operation of the trademark law in Nigeria had been smooth and efficient. However, the adoption of the Revised Treaty would necessitate the updating of its operations, particularly to meet the challenges of electronic-based procedures. Therefore, the Delegation of Nigeria needed to emphasize the continued importance of technical assistance, training of personnel, upgrading of its national IP infrastructures, and the possibility to pursue existing modes of registration of trademarks.

212. He concluded by calling for the continued assistance of WIPO in providing advocacy and public awareness campaigns on the importance of IP rights and their usefulness as tools of development. Like others, his Delegation had come to this Conference with a keen interest to engage in constructive negotiations and it hoped that the participants would build upon that to achieve tangible results.

213. Mr. SCHROCK (Germany) said that Germany welcomed the unique opportunity to modernize the TLT, *inter alia*, with a view to injecting some elements that take into account recent developments such as technological changes.



214. He noted that trademarks and service marks could also be viewed as trust marks. They made goods and services distinguishable from each other as regards their origin. The promise of specific characteristics or a certain quality were enshrined in every mark, not just in luxury labels. Thus, marks contributed to the confidence of consumers in branded goods and services. However, such benefit could only be generated on the basis of a viable legal framework. Due to the territoriality of IP rights, it was in the first place for national law to provide for such a framework. But where goods or services were not just offered in one jurisdiction, but across national borders, an international legal framework appeared to be indispensable. The development of harmonized and internationally agreed procedures was an incremental process and certainly not an end in itself. Harmonized standards facilitated global trade, worldwide investment and technology transfer and thereby also strengthened national economies.

215. He further noted that this Conference was entrusted with the task of making a substantial contribution towards that end, and that the SCT had elaborated a Basic Proposal which would hopefully prove to be a solid basis for the work of the Conference. He assured the Conference that the Delegation of Germany was happy to offer its full support in every aspect.

216. Mr. MAHINGILA (United Republic of Tanzania) said that, having witnessed the initial work the African Group, as well as in the Plenary and in the two Committees of the Conference, he had noted the seriousness and commitment of the delegations to positively and constructively engage in the negotiations, which would eventually lead to the adoption of the Revised Treaty. His Delegation represented one of the LDCs and he would therefore be happy to see the adopted Revised TLT as having a definite role in the national growth and poverty reduction strategy, and also contributing to his country's efforts to achieve the Millennium Development Goals. It was only then that the Revised TLT would have a significant relevance and impact on the people of his country.

217. He noted that, while his Delegation assured its full commitment to working constructively to achieve the objectives of the Conference, it sincerely looked forward to seeing the inclusion, preferably in the final Treaty itself, of provisions which would assist developing countries and LDCs to implement their obligations as would be required by the new Treaty. In that regard, his Delegation fully associated itself with the statements made by the Delegations of Nigeria and Benin, respectively, on behalf of the African Group and the LDCs. He wished to take the opportunity to thank WIPO for the technical assistance to his country.

218. Mr. HARLLEY (Ghana) said that his Delegation wished to associate itself with the sentiments expressed by Nigeria on behalf of the African Group. Ghana considered the work on harmonization of trademark laws to be one of the important steps in the development of international cooperation. The Government of Ghana had declared a golden age of business and identified the private sector as the engine of growth for development. As a result, Ghana recognized the increasing importance of trademarks as identifiers for businesses in connection with the transition of the country to a market economy system. He noted that the Trademarks Act of Ghana 2004 had introduced substantial provisions that were in accordance with the proposal for a Revised TLT. In its quest to attract foreign investors and also encourage SMEs to be competitive, the Ministry of Trade and Industry of Ghana, under the Trade Sector

Support Program, had commenced a comprehensive review of all IP laws with a view to modernizing them to reflect the interests of all stakeholders in accordance with international norms.

219. He hoped that under the Revised TLT, the difficulties that applicants for trademark registrations sometimes encountered in processing their applications in various countries would be substantially reduced through uniformity of the administrative procedures among Member States. He also hoped that developing countries would receive the necessary assistance and logistic support to implement the Treaty.

220. Mr. AYALOGU (Nigeria), speaking on behalf of the African Group, said that the African Group expected the Treaty to be balanced and pragmatic enough to facilitate the developmental process in all the contexts ascribable to it. In the light of this, he considered that the issues referred to by the President as "horizontal" should be dealt with expeditiously by the Conference, in view of their cross-cutting nature, and the crucial importance that they had in relation to the capacities of some countries to implement the new Treaty in an effective and sustainable manner. The horizontal issues were therefore of basic significance to the African Group. They related to its ability to implement the Treaty and also to the capacity of the LDCs to implement and benefit from its provisions. He referred in particular to the administrative, legal and technical competence and capacity.

221. He stressed that the likelihood that technological disparities might inhibit or prevent certain groups of countries from taking full advantage of the provisions of the Treaty so as to improve their IP administration, should be an integral part of this treaty-making process. Otherwise, there was the risk of having a deformed instrument at birth that may present difficulties to the majority of states to adopt and implement at the national level. In order to forestall such an eventuality, it was necessary that the Conference remain open to suggestions coming from the developing countries and LDCs about their fears and concerns, in order to incorporate such concerns into a framework that could be considered organic to the Treaty and its regulations. It was important therefore, to appreciate in advance the limitations that would be imposed on the operations of the IP Offices of African countries, by the technological requirements of the new Treaty, especially at the level of implementation. The transition from a paper-based process to an electronic-based mode would, without doubt, impose severe demands on already over-stretched financial resources and infrastructures of such countries.

222. He considered that African countries should therefore be supported in their efforts to evolve with the changing times and conform to the demands of modern technology and innovation. In as much as they would not wish to draw any countries back, they would also not wish to be left lagging perpetually behind. They needed support to be able to develop their information and communication technology infrastructures, train sufficient manpower to operate the new technologies and administer legal regimes. He noted that, for example, in the case of the harmonization of the international trademark law, consideration should be made of the gap between the developed countries and their developing and LDC counterparts. He also noted that his Group would wish to emphasize that conceptually, the ongoing process was one in the continuing and global search for development. He conceded that some countries were yet to reach an optimal level of development, but were committed to getting where others had reached. In this undertaking, the support and encouragement of parties especially the

advanced countries was invaluable. He called on the latter to engage in understanding and reaching a common position on issues of concern to the African countries and to advance this process.

223. Mr. MEJÍA GUEVARA (Honduras), speaking on behalf of the group of countries of the GRULAC region, said that the Group supported the work plan outlined by the President. It was the perception of the Group that, at the end of this Conference, all parties could reach an encouraging and positive outcome, which would take into account all concerns and would reflect a fair balance of achievements to be shared by all countries, including developing countries.

224. He stressed that GRULAC was willing to work with all the stakeholders at the Conference in a spirit of compromise and cooperation. He hoped that the Treaty resulting from the negotiations would be a robust Revised TLT, whose benefits could be shared by all countries. He considered that, in order to have a Revised TLT that could be attractive for current and future members, it was necessary to pay attention to the technical and horizontal issues. He informed that GRULAC was still considering a number of issues of interest that would be raised in due course.

225. Mr. ADDOR (Switzerland), speaking on behalf of the Group B countries, informed that the Group noted with satisfaction the progress made during the first week of work in Main Committees I and II. He highlighted the positive atmosphere that prevailed in the Conference and congratulated the President for the way in which he had guided the work of the first week. He acknowledged the long, sometimes difficult hours involved in conducting the negotiations and expressed his gratitude for the President's commitment. He also praised the Chairs of the Main Committees for their effective management of the meetings.

226. He appreciated the active participation of a large number of delegations in the debate and their constructive approach to the substance of the draft Revised TLT. The range of issues raised showed the determination of delegations to grapple with the details and substance of the text and their collective commitment to a successful conclusion of the Revised TLT. This collective commitment was also illustrated by the first report of the Credentials Committee which showed that 37 delegations had come with full powers to sign the Revised TLT. He anticipated this number to grow during the second week of the Conference. Those credentials gave members the authority to finalize the text of a treaty dealing with detailed procedures in relation to the acquisition and maintenance of trademarks.

227. He believed that the new instrument would offer trademark Offices and businesses –large and small and wherever located– important advantages in terms of a known set of procedures for the registration of trademarks. The draft proposal largely empowered each trademark Office to choose the means of putting into effect the terms of the Treaty. In particular, the draft Treaty did not impose on any trademark Office the obligation to accept electronic filing: any office would remain free to retain a paper-based system. The draft Treaty should not lead to added complexities or costs to the system of a signatory State. Quite to the contrary, the Treaty should make procedures less expensive and easier for both users of the system and trademark Offices. Nor, for example, did the draft Revised TLT impose obligations on signatory States to protect new kinds of signs. Some offices would prefer to restrict registration to the more traditional trademarks. Here as in many other

respects, the treaty would give signatory States the flexibility they needed. Group B countries were willing to consider any proposal that would put this beyond doubt and would safeguard the flexibilities that the Treaty offered to signatory States.

228. In conclusion, he said that the countries of Group B had no doubts that the Revised Treaty would bring significant and long-term benefits to each signatory State. Nevertheless, he acknowledged that accession to the terms of the Treaty as finally adopted at the Conference might require a signatory State to adjust its national law and practice for the new standards. Therefore Group B countries were also willing to constructively engage in discussion of any concrete proposal with regard to the implementation of the Revised TLT into the national laws and practice of a signatory State.

229. Mr. TOPIĆ (Croatia), speaking on behalf of the Group of Central European and Baltic States, said that the Group was very pleased and encouraged with the pace and developments achieved at the Conference. The Group was confident that under the President's guidance and with the dedicated work of the Chairs of the Committees and the Secretariat, members would be able to achieve the objective of the Conference, so clearly set out in the President's introductory remarks. He also highlighted the atmosphere of constructive and efficient cooperation shown by all participating delegations.

230. He noted that the objective of the Conference being the adoption of the Revised TLT and its Regulations, many members of the Group had come to Singapore with full powers to sign the Treaty and were looking forward to making good use of those powers. He also noted that the Group was aware of the ongoing informal consultations on certain issues that the President had termed as "horizontal" but, since no formal proposals had been tabled yet, the Group had not adopted a common position on that matter. Nevertheless, he gave assurances of the full support of his Group and his readiness to approach the discussions in the scope of the Group's mandate in an active and positive manner.

231. Mr. BOLDVIK (Norway) recalled that the driving force behind the Conference had been the recognition of a need for a harmonized, efficient and user-friendly system of national and regional trademark procedures and formalities. He stressed that, in the modern global economy, trademarks had proven to be of utmost importance to future development and economic growth throughout the world. By laying the foundation for a simplified and unified system, a new treaty would play a fundamental role in strengthening the trademark system as a whole.

232. He pointed out that, in order for the Basic Proposal to be a success, the Conference had to achieve a balance between two central elements. On the one hand, a harmonized system could only be reached through extensive participation during the Conference and comprehensive ratification at the end. On the other hand, the less complex the new Treaty was, the more user-friendly it would be for trademark applicants around the world. He concluded that the challenge posed to the Conference was to counterbalance the desire for perfection with the need for an efficient and practical system. He recalled that considerable time and resources had been invested during the preparatory work. During the weeks ahead, it would be of particular importance to keep in mind the principal reason for being in Singapore: namely to adopt a Revised TLT.

233. The Delegate said that his Delegation wished to participate in the negotiations in a constructive and positive manner. He pointed out that it was the intention of Norway to join the new Revised TLT when a new Trademark Act to be enacted within the year 2006 entered into force in Norway. He emphasized that the ultimate responsibility for a successful Conference rested firmly on the shoulders of each individual delegation.

234. Mrs. GOVINDEN (Seychelles) stated that the Seychelles recognized the importance of the proposed revision of the TLT and its crucial influence on the development of trademark law in the Member States of WIPO. She underlined that, at the same time, special attention had to be devoted to the needs of developing countries, such as the Seychelles, and sufficient flexibility had to be offered in order to ensure the successful adoption of a Revised TLT as well as any recommendations, resolutions, agreed statement or final act at the Diplomatic Conference.

235. The Delegate underlined that her country would fully collaborate and was ready to improve its infrastructures and national laws to fulfill its international obligations in the field of trademarks and intellectual property in general. To achieve the standard required, the Seychelles encouraged WIPO to continue to enhance its training and technical assistance programs accordingly. She pointed out that her Delegation endorsed the statement made by the Delegation of Nigeria on behalf of the African Group and associated itself with that statement.

236. Mrs. EL TINAY (Sudan) stressed that the discussion and subsequent work for the adoption of the Revised TLT was not an easy task and, in fact, posed a real challenge to all participants whether from developed, developing or LDCs. Extensive work, perseverance and insightfulness were required with regard to the Revised Treaty whose objective was to simplify and facilitate procedures for the filing and registration of trademarks in order to keep up with recent developments in communications technology and electronic filing, in conjunction with filing in paper form. The Revised TLT would introduce a modern definition of trademarks, including new non-visible signs, such as smell marks and sound marks.

237. The Delegate pointed out that due consideration should be given to whether the Revised TLT was to enter into force after the expiration of a specified period of time following ratification, as well as whether it would be possible for Contracting Parties to make reservations and, under specific circumstances, refer certain matters to their respective national legislation. She stated that the digital divide between developed, developing and LDCs needed to be taken into account. With the exception of one or two countries, many African countries faced obstacles in their efforts to overcome such difficulties. The scarcity –but not the lack– of financial means and qualified human resources in advanced technology could be an obstacle to the adoption of such systems.

238. The Delegate underlined that her Delegation was not against a practical leap in the field of trademark registration, but expected that real and effective assistance be provided. Such assistance should not be limited to the provision of office equipment and internal or external office staff training. She expressed the hope that a wider assistance program would be adopted in order to contribute to the development and implementation of national strategies, as set out by individual offices. To this end, a committee had been established in Sudan with the objective of strengthening IP Offices. Such efforts were to be geared towards enabling offices to face the challenges brought about by technological advances. In this regard,

training would be needed for IP Office users, including stakeholders and trademark agents, with the objective of improving performance in this field. In her Delegation's view, the enhancement of the capabilities of developing countries in using advanced and modern technology should not simply wipe out all traditional means, such as paper. She expected that a transitional and progressive process would be adopted so as to avoid any disruption in long-lasting procedures and systems.

239. The Delegate said that, in the Office of Sudan, paper copies were still in use. However, work had been initiated for the automation of procedures in the field of trademarks, patents and industrial designs, through the introduction of basic rules as an initial phase. While the Delegation of Sudan welcomed any effort towards the success of the Revised TLT, there was still a concern that Office resources were far from being available for the expected leap. Therefore, many countries which still had some concerns with regard to joining the new Treaty could be encouraged by allowing flexible and progressive implementation and taking into account the limited resources of developing countries.

240. Mr. SEIDOV (Azerbaijan) expressed his conviction that the Conference would work effectively and complete its tasks successfully, one of the main reasons being the organization of the Diplomatic Conference under the direct leadership of the WIPO Director General, Dr. Kamil Idris. The Patent Office of Azerbaijan saw Dr. Idris as the embodiment of WIPO's multifaceted assistance and support in matters relating to IP protection. Proof of that was the very recent visit to Baku (Azerbaijan) by Dr. Idris. The result of the meetings he had held in the sphere of IP protection at very different levels was the increased attention, enhanced involvement and special interest shown by state bodies in resolving matters in that area.

241. He noted that the efforts of the SCT in revising a key international agreement in the field of trademarks, were a regular but essential step on the way to progress, improvement and further harmonization of IP protection. The reforms designed to improve the existing TLT 1994 were dictated in accordance with the technological requirements of the past decade and were aimed at simplifying trademark registration procedures. A Revised Treaty would further simplify administrative procedures for trademark applicants and owners, and would create the conditions for the electronic registration of trademark applications. The proposed revision of the TLT would, in the final analysis, generate a more effective trademark registration procedure at the global level. Azerbaijan subscribed to the unanimous opinion concerning the effectiveness with which WIPO proved once again that intellectual property was a basis for the existence and coexistence of humanity, that no culture was alien to it and that it was inherent in all states.

242. He further noted that Azerbaijan wholeheartedly supported the initiatives designed to expand the range of the Organization's activities. The efforts aimed at developing the IP system for its use as an instrument of economic, social and cultural development of countries were embodied in all WIPO's activities. The Delegation assured the Conference that in future the work of the Patent Office of the Republic of Azerbaijan would be aimed at creating the conditions for the successful implementation of WIPO's programs, and explanatory and instructive documents for the improvement of work done in the field of industrial property protection, and as a source of progress in all the spheres of human activity.

243. The PRESIDENT expressed his appreciation for the opening declarations made by the different delegations which had taken the floor.

244. The PRESIDENT adjourned the meeting.

Fourth Meeting  
Wednesday, March 22, 2006  
Afternoon – 17:00 hrs.

245. The PRESIDENT recalled that, at its last meeting, the Plenary had adopted the first report of the Credentials Committee under Agenda Item 9. He pointed out that, under Agenda Item 12, the Plenary would consider the second report of the Credentials Committee. Before this second report was presented, he invited the International Bureau to give an interim update on the work of the Credentials Committee.

Interim Update on the Work of the Credentials Committee

246. Mr. KWAKWA (WIPO) drew the attention of the Plenary to an informal information document that had been produced in order to prepare the second meeting of the Credentials Committee. Unless the International Bureau received any additional instruments, the list reproduced in the information document would serve as a basis for the work of the Credentials Committee. The list showed those delegations that had full powers to sign the Treaty and those that only had credentials to sign the Final Act. He stressed that, in case any delegation was unable to receive its credentials or full powers before Friday, it still would have an opportunity to present its instrument. With regard to those delegations that specifically requested to be moved from the full powers category to the credentials category, he indicated that this request could easily be accommodated because full powers, in any case, included credentials. For those delegations with credentials only, however, the International Bureau would be unable to move them up to the full powers category unless they had an instrument signed by one of the authorities entitled to confer such powers. He recalled that there had also been a few delegations that had raised questions as to whether they had the necessary full powers. In this respect, he pointed out that the International Bureau, when evaluating the instruments presented by delegations, followed the Rules of Procedure as well as the Rules established by the Credentials Committee.

247. He clarified that the reason for being unable to accord full powers to a delegation whose instrument had not been signed by one of the appropriate authorities, lay in the fact that, if that delegation were to sign the final Treaty, the act of signature itself could be subject to challenge. The International Bureau preferred not to have such an incident. He emphasized that the list contained in the present information document was not the final list.

248. The PRESIDENT returned to Agenda Item 10 (Opening declarations by Delegations and by representatives of Observer Organizations). He recalled that this item had not yet been closed in order to give an opportunity to delegations which so desired to make opening declarations.

### Opening Declarations

249. Mrs. MOGIN BARQUÍN (Spain) said that it was an honor for her Delegation to be able to attend the Diplomatic Conference for the Adoption of a Revised Trademark Law Treaty, with which a new phase in the process of consolidation of a more harmonized international system of trademarks was opening.

250. She added that it was a cause for satisfaction to affirm that in the past few years important steps had been taken to construct an international trademark system that served both industrial property Offices and users, as well as firms and individuals.

251. She emphasized that the introduction of Spanish on the same level as English and French, as approved by the Madrid Union Assembly in 2003, and subsequently the accession of the European Union to the international trademark system, constituted key events that were incorporated in that process.

252. She also said that her Delegation was aware that industrial property was an instrument for users, primarily companies, to have a favorable legal framework which, in addition to granting security and protection for users' rights, was also sufficiently close and flexible to make investments in industrial property assets profitable.

253. Similarly, she said that economic development was ever more dependent on technological innovation, the ease with which products could be present on different markets and the marketing of products at the international level. Only if they facilitated the establishment of a standardized international legal framework for industrial property rights, in support of the globalization of enterprises, could they help to increase investment and generate greater business momentum that would extend to local markets.

254. She said that through the Spanish Patent and Trademark Office Spain was fully committed to the process and in fact pointed out that the new Spanish Law on Trademarks, approved in 2001, had deepened the incorporation of legal mechanisms that made the procedure for the granting of trademarks more flexible, and also introduced measures that facilitated electronic filing and processing. She also emphasized that measures had been introduced to facilitate the defense and protection of the rights of trademark owners.

255. As regards the introduction of new technologies, she underlined that in July 2005 Spain had introduced the electronic filing of trademark applications. Since that time any applicant had the opportunity to file its trademark application by electronic means, and benefited from a 15 per cent discount on the filing fee. The same was true of the related communications which the Office made to affected individuals, and which were given real form by electronic means.

256. The amendments proposed in the working documents containing the Basic Proposal for the Revised Treaty and the Regulations thereunder appeared to add greater depth from the procedural point of view, not only in the mere filing and processing of applications, but also relevant attention was devoted to licenses. In that regard, the Delegation of Spain considered that the proposed precautions were positive and that they would generate benefit in the form of greater momentum for industrial property trademark titles and therefore the economic activity of businesses.



257. The Delegation of Spain therefore wished to place on record its complete willingness to participate actively in the sessions of the Diplomatic Conference in order to help to facilitate the debates and work done during the sessions on the Basic Proposal for a Revised Trademark Law Treaty.

258. The Delegation would not only be present during the meetings held in the corresponding Main Committees and Working Groups that had been set up, but also in the actual Conference Drafting Committee.

259. In conclusion, she said that her Delegation congratulated the members of the SCT, as well as the International Bureau itself for the productive efforts that they had made in order for the Diplomatic Conference to be able to meet, and she hoped that the Conference would produce a positive outcome.

260. Mr. MOYOUANA (Central African Republic) said that his Delegation could not be insensitive to such a large event as the Diplomatic Conference for the Adoption of a Revised Trademark Law Treaty, in which it was currently taking part in Singapore. He added that it was useful to recall that the Central African Republic belonged to the Group of LDCs and that it was a poor, highly indebted country, whose difficult context was worthy of particular attention. In that regard, he said that the Delegation of the Central African Republic firmly supported the introductory statements made by the Presidents of the African Group and the Group of LDCs, which were designed to raise delegates' awareness of the need to identify accompanying measures allowing gradual implementation of the conclusions of the current work. He was sure that those conclusions would help to make intellectual property, and more particularly trademarks, a real driving force for development.

261. Mrs. MOHAU (Lesotho) said that the Delegation of Lesotho wished to endorse the statement made by the Delegations of Nigeria on behalf of the African Group and the Delegation of Benin, on behalf of the LDCs. She noted that, as the world was getting smaller due to digital technology, the Revised TLT came at an opportune moment to simplify procedures for the users of the system. She praised the holding of this Conference as timely, necessary and very important. She hoped that it would take on board the different levels of technological development in such a way that even LDCs would be able to reap the benefits of this most important effort of the international community, to harmonize and simplify the international trademark system. She noted that the SMEs' sector in her country should be in a position to view these efforts as facilitating their endeavors to enter the markets through the use of intellectual property as a power tool for development.

262. She reiterated the call by the African Group that the implementation of the Treaty should not burden the LDCs with financial, technical and administrative resources beyond their limits. She expressed her positive conviction that the Conference would come up with a treaty that was sensitive and cognizant of the different levels of development in the Member States of WIPO and said that she looked forward to the successful completion of the Conference.

263. Mr. SISAVAD (Lao People's Democratic Republic) acknowledged the technical cooperation received from WIPO in establishing the basic automation for the registration of trademarks and other IP rights. He recalled that in his opening remarks, the President of the Conference had said that horizontal issues such as capacity building and technical assistance

were an integral part of the discussions. Therefore, the Lao People's Democratic Republic as other LDCs called on the President's leadership to ensure that those horizontal issues would be reflected in the Revised TLT. He declared his Delegation's commitment to the further implementation of the Treaty.

264. Mr. POUDEL (Nepal) said that Nepal was a small Himalayan kingdom situated between China (North) and India (South, East and West). It was landlocked and an LDC with an area of 147,181 square kilometers and a population of around 26 million. The gross domestic product (GDP) of Nepal was approximately NRs (Nepalese Rupees) 52,9 billion and the contribution of the industrial sector was approximately 10 percent.

265. He explained that, in Nepal, a Patent, Design and Trademark Act had been promulgated in 1937 for the first time. A new Patent, Design and Trademark Act had replaced this Act in 1965. This latter Act had undergone amendments in 1987, 1992 and 2005 to make the enactment simpler, more transparent and compatible with the WTO. Similarly, a Copyright Act had been enacted in 1965 that was replaced by a new Copyright Act in 2002. Nepal was far behind in IP development because of a lack of awareness and institutional supports. There was no adequate knowledge about intellectual property among entrepreneurs. A majority of them did not know what IP rights were and what kinds of benefits could be acquired from intellectual property. In Nepal, SMEs, scientists, lawyers and technical manpower had very limited knowledge and skills in the area of intellectual property. Knowledge and skills could be provided through different sorts of training and academic courses. But Nepal had yet to establish academic institutions which ran IP courses and training programs.

266. The Delegate pointed out that the importance of intellectual property had gradually been realized among business communities, as there had been a gradual increase in the registration of patents, industrial designs and trademarks in the country. So far, 23,003 trademarks, 65 industrial designs and 58 patents were registered in Nepal. Of the registered trademarks, about 42 per cent were of foreign origin while 58 per cent were of domestic origin. Similarly, out of 65 registered industrial designs, 21 per cent were of domestic origin and 79 per cent were of foreign origin. Likewise, out of 58 registered patents, 41 per cent were of domestic origin and 59 per cent were of foreign origin. He felt that this indicated that the level of awareness on industrial property among business communities was gradually increasing in the country.

267. In the government mechanism of Nepal, there was no separate Office for the administration of intellectual property. The Ministry of Industry, Commerce and Supplies was the supervisory body for policy and legal provision issues. The Department of Industries under the Ministry of Industry, Commerce and Supplies was responsible for administering industrial property. At present, the Industrial Property Section of the Department of Industries offered the following services in the field of industrial property administration: screening of applications received for registration with three months' pre-registration opposition period; registration of patents, industrial designs and trademarks; production of promotional materials for the dissemination of information on intellectual property; receiving complaints and cases of infringement and violation of intellectual property; conducting investigation and taking necessary action against infringements and violation of IP rights; organizing IP-related meetings, seminars and promotional activities; equal treatment for domestic/foreign entrepreneurs (non-discriminatory treatment). The Delegate added that,

whereas the Copyright Registrar's Office under the Ministry of Culture, Tourism and Civil Aviation was responsible for copyright administration in the country, the Ministry played the role of an umbrella policy organization.

268. He said that, in Nepal, the majority of industrial and commercial activities were conducted by SMEs which were the foundation of its economic and industrial development. The development of SMEs and the IP system were highly interdependent. To support the SMEs (as they were large in number and scattered in different parts of the country), the intellectual property administration needed to be improved and developed to meet the challenges of new economic trends and economic practices bringing the majority of IP users in the country within the IP administration. There was an increasing trend of involving the private sector in IP-related activities. The Federation of the Nepalese Chamber of Commerce and Industries (FNCCI), an apex body of the business communities in the private sector, had formed a separate brand protection unit to look into IP-related matters. Similarly, lawyers' forums for intellectual property had been formed to face the IP concerns in the country. The Government of Nepal supported such associations as their efforts aimed to create awareness of IP issues.

269. The Delegate added that, in Nepal, educational, research and development activities in the field of intellectual property were supported by the following institutions: Nepal Law Campus, Royal Nepal Academy of Science and Technology (RONAST), Research Center for Applied Science and Technology (RECAST), National Agricultural Research Council (NARC).

270. With regard to enforcement, he underlined that there were some authorities which were responsible for effective enforcement of IP-related activities. The Industrial Property Tribunal was working under the Department of Industry, whereas the copyright court was a district court. There were appellate courts and district administration offices. Customs and police were also responsible for the enforcement of IP activities according to specific acts or legal provisions.

271. Until now, there was no separate policy on the IP system in the country. It had been considered urgent to formulate the national policy, strategies and programs regarding the IP system. Necessary steps had been taken by the concerned authorities regarding IP policy and the IP Office.

272. The Delegate recalled that Nepal was a member of WIPO. It was a party to the Paris Convention and the Berne Convention. Nepal was in the process of joining the Madrid Protocol and the Patent Cooperation Treaty and had become a member of the WTO. As to the commitment of Nepal to the WTO, an Intellectual Property Protection Act was under consideration for final approval. It was hoped that the new Act would address major IP concerns, such as research and development, the attraction of foreign direct investment and the facilitation of the trading environment in the country. The Department of Industries of Nepal had received technical support and cooperation from WIPO through the WIPONET program aiming at the computerization of IP-related files and the provision of training to IP officials. The Government of Australia would offer support in the field of the TRIPS Agreement under the program AUS aid. The project: Nepal Window II Trade Related Capacity Building Project, a joint project of the Government of Nepal and UNDP/WTO, had made arrangements to provide financial support to conduct IP awareness seminars in five

major industrialized cities. The Department of Industry had been receiving support and cooperation from WIPO-SIDA (Swedish International Development Cooperation Agency) for the capacity building of IP officials of the Department of Industry. WIPO had conducted specialized training for IP examiners on the Nice and Vienna Classifications.

273. The Delegate stressed that IP rights should be preserved and protected by each country. For this, there should be a regular flow of information and enforcement measures applied by the respective countries. Being an LDC, Nepal had lagged behind in adequate infrastructure, expertise and capability to understand, implement and enforce IP rights. Similarly, it had less access to financial and technical resources that were essential for the development of the IP system. Nepal thus felt the need for financial and technical assistance and cooperation from multilateral, regional and bilateral agencies in general and in the following areas in particular: inclusion of IP-related courses in the curriculum of academic institutions; launching of IP awareness campaigns in major industrialized cities of the country; creating IP training institutions and organizing training courses and workshops on intellectual property; setting-up an IP information center and a website and other public outreach; supporting and encouraging the establishment of IP-related associations; formulation of IP policy and a new IP act covering all administrative and enforcement requirements and ensuring conformity with international treaties and practices; preparation of IP manuals and search facilities for the examination of intellectual property filed for registration; adequate numbers of trained manpower for administration and enforcement of IP rights and obligations; institutional supports for creative and innovative activities.

274. Mr. ENÄJÄRVI (Finland) wished every success to the Conference in view of the growing role of trademarks in international trade. He was particularly satisfied that the Basic Proposal contained the option of filing applications electronically and reflected further forms of electronic filing. In Finland, electronic filing was possible, for example, in the field of patents at the National Board of Patents and Registration of Finland. Electronic filing had been growing constantly.

275. Mrs. JUNUS (Indonesia) stated that, as the Conference was proceeding on the negotiations and the adoption of a Revised TLT, as mandated by the 31<sup>st</sup> session of the WIPO General Assembly in 2005, she wished to share with all delegations that Indonesia had continuously been following with a keen interest the proceedings of updating the TLT in order to enable the latter to be better suited to the rapid changes in information technology. She emphasized that a number of important developments had taken place in Indonesia in recent years, mainly with regard to efforts made to improve and modernize its IP system.

276. As a consequence of ratifying the TLT in 1997, the trademark law of Indonesia had been further revised in 2001 so as to cope with current needs in streamlining the trademark system, as well as improving the commitments of Indonesia towards the TRIPS Agreement. In particular, the improvement included: the possibility to lodge IP applications (including trademarks) from regional Offices so as to assist IP applicants who lived far from Jakarta in filing their applications; the introduction of a geographical indications system (the implementation regulation of which was currently under final preparation); the assignment of IP infringement cases to, at present, five commercial courts scattered throughout several large cities in Indonesia; the possibility to obtain provisional decisions from the commercial

courts; the introduction of arbitration or alternative dispute resolution mechanism. The Delegate added that, in January 2001, the Appeal Commission of Trademarks had been established and was working efficiently.

277. She noted that the current level of technological development demanded a credible system of protection. An efficient, effective, and accessible system for protecting IP rights was an indispensable requisite. Like many other countries, specifically developing countries, Indonesia had been modernizing its IP rights processing system in recent years in order to make a better match with the current level and standards of the IP Offices in other countries. As of March 2004 Indonesia had begun to process trademark applications by using an information and communication technology system which still had to be further developed. In this regard, the Delegation of Indonesia was of the view that the activities and processes of utilizing information and communication technology constituted an important tool in modernizing IP protection systems and particularly the trademark protection system in Indonesia in order to enable the country to fully comply with the provisions of the TLT.

278. The Delegate pointed out that, as a State party to the TLT, Indonesia continued to be of the view that the benefits acquired through the process of revising the Treaty would be overwhelming. The participation in the TLT clearly reflected the continued commitment of Indonesia towards the protection of trademarks. The participation also significantly contributed to the overall economic development programs of Indonesia. As the draft of a Revised Treaty, after a long period of extensive work in the SCT, now entered its final stage, the Delegation of Indonesia appreciated that this process had enabled Member States to complete the drafting of a Revised Treaty with enthusiasm. She reaffirmed the full support for and endorsement of the Basic Proposal by the Delegation of Indonesia. The text had been carefully formulated to accommodate the concerns of most of the Member States of WIPO. The Delegate looked forward to working together with the President and all delegations in a spirit of cooperation and mutual understanding for the success of the Conference.

279. Mrs. ADÁN (Argentina) said that the representatives of her Delegation believed it was necessary to emphasize that the level of dialogue, work and commitment reached promoted and helped to generate a synthesis of future prospects, the final aim of which was to produce a forum fully based on fairness and justice, and able to safeguard the identity and institutions of each country, while highlighting the differences that continued to exist between developed and developing countries. The Delegation congratulated the work team, both that of WIPO and of the Government of Singapore, on the willingness for management and the services provided, which placed within the scope of participants the facilities necessary for work, and fundamentally on the spirit of cooperation generated at the meeting.

280. Mr. JORGE MENDES (Portugal) said that in 2005 the Government of Portugal had produced and was currently applying a Plan for Technology Development and Promotion of Innovation. In that regard, the Plan involved greater mobilization of energies and resources in Portugal.

281. He emphasized that the Technology Plan also provided for specific measures to facilitate the protection and defense of industrial property rights.

282. With particular reference to trademarks, he said that a project had been launched through which entrepreneurs could register their trademarks, benefiting from a rapid, secure and efficient process, with absolute observance of national, community and international standards.

283. In addition, the National Institute of Industrial Property, which was the central industrial property body in Portugal, had made available to all those interested, as well as through the Internet, all its databases with information updated in real time.

284. In conclusion, he said that the President could rely on the constructive attitude of his Delegation so that the Conference, over which the President presided in such an illustrious manner, would be a great success.

285. Mr. ROCA TAVELLA (Peru) said that Peru appreciated the effort made by WIPO to hold a Diplomatic Conference for the Adoption of a Revised Trademark Law Treaty in order to readapt the standard criteria for the procedures followed in the registration of trademarks in each of the member or applicant countries. He added that Peru recognized the enormous importance at the current time of the search for harmonized standards which were internationally applicable in the IP sphere. His Delegation considered that such importance required its active participation, since it was the only way to generate international standards that covered the interests and opinions of all countries.

286. He considered that those standards, particularly in relation to the subject under consideration by the Diplomatic Conference, should promote the adoption of mechanisms, the aim of which was to seek legal security and the greatest efficiency and speed possible in the procedures or processes related to trademark registration. In that vein, he said that he was convinced that technological development provided important tools that should be used beneficially by trademark Offices in all countries in the search for their main aim, i.e. appropriate service for system users.

287. In that context, he said that Peru was of the opinion that another basic pillar in the process of generating internationally applicable standards should not be lost from view, i.e. the due consideration given to the different stages of relative development of countries and the development aims. The adoption of a treaty involved the search for improvements which favored those countries acceding to the Treaty and the acceptance of certain undertakings, and it was important that the provisions adopted gave due consideration to the conditions of developing countries so that those conditions could be implemented in practice and the proposed aims achieved. He believed that it was also important to set up rapid procedures and to offer legal security through the registration of trademarks, in relation to the interests of third parties that might be affected during the processing of any procedure.

288. In that regard, he expressed his agreement with the measures for compensation in case of failure to meet deadlines, insofar as those measures were established on the basis of objective criteria such as those in the Basic Proposal. Notwithstanding, he considered that the deadlines included in that provision should be reasonably short so as to allow swift procedures and satisfaction for system users. On that subject, he specified that the deadlines adopted by Peruvian legislation, i.e. 60 working days, had allowed them to satisfy all the provisions established in their procedures, along with the demands of trademark system users in Peru within a period that was considered to be reasonably expeditious.

289. In the search for clear criteria, he said that it was necessary to define unambiguously the criterion of “due care” adopted in the Basic Proposal, so as to avoid the possibility of causing legal insecurity for third parties, as a result of discretionary and unequal interpretations by each of the trademark Offices in different countries. Nevertheless, he emphasized that the subject was not the only one on which Peru was particularly interested in placing emphasis. Thus, referring to licenses for the use of trademarks, he said that Peru was not unaware of the fact that the registration of licenses for use was optional and did not constitute an actual right. However, he added that he was convinced that the publicity which registration provided was much more of a guarantee for the market in relation to the conduct of private operations which were not widely known.

290. The licensing of trademarks was a way of expanding the development of such marks and on many occasions was the basis for strategic business alliances, for which reason the concept of legal security within which those relations should develop was vitally important. Within that context, having available and gaining access to complete and reliable registration information would facilitate the drawing-up of contracts between parties owing to the fact that the matters relevant to a registered right would be duly adopted and publicized, which in turn would allow registration to be possible in relation to third parties. From that perspective, the registration of licenses had implications for the conduct of economic transactions. Similarly, he said that the registration of licenses would allow certain rights to be exercised, especially those relating to the conduct of various actions such as the denunciation of infringements of industrial property rights and the raising of objections.

291. The adoption of certain undertakings contained in the Treaty presupposed the implementation of mechanisms which certain countries –primarily developing countries such as Peru– currently lacked and whose incorporation involved the investment of scarce resources. He considered that the situation should be mitigated by incorporating a reasonable period for countries acceding to the Treaty to make the efforts necessary to allow them to adapt their procedures and legislation to the provisions being adopted. Insofar as the Treaty did not mention that transition period, he proposed its incorporation in order finally to achieve the appropriate implementation of the provisions being established. In conclusion, he said that such a vision and the specific proposals put forward by Peru as the fruit of the analysis and recognition of various realities and characteristics of the countries involved in the process should help, on the basis of a spirit of consensus, to obtain a standard-setting instrument of international scope that would strengthen the daily work of trademark Offices and satisfy system users.

292. As to specific points of the text of the Basic Proposal, the Delegation said that Article 8(3)(c) could be moved to become paragraph (7) as follows: “notwithstanding paragraphs (1), (2), (3), (4), (5) and (6) of this Article, a Contracting Party may require that evidence be filed with the Office where the Office may reasonably doubt the authenticity of communications”. Similarly, it proposed that Article 19 should include a paragraph (2)(b) which read: “notwithstanding paragraph (2) a Contracting Party may require, in accordance with its own legislation, the registration of a license as a condition of benefiting from the right and the licensee may appear in person in any other procedure in which he claims to exercise other rights in relation to third parties”.

293. Peru considered it appropriate to include in the Treaty transitional provisions for leveling out the effects of certain provisions in order to allow the gradual application of a multiple-class system. If no transitional provisions were available for those purposes, that might prevent or delay the accession of many countries to the Treaty until such time as they had transferred from their current systems to the multiple-class system.

294. With regard to Article 22(2), the Delegation proposed that for any amendment to the Regulations three-quarters of the votes cast by the Diplomatic Conference should be required. It also proposed that in Article 23(2) subparagraph (ii) should be deleted, given that the amendment referred to there should be a task before the Diplomatic Conference. Finally, with respect to Article 25 the Delegation proposed that the decision to hold a Diplomatic Conference to revise or amend the Treaty and the Regulations thereunder should only be the prerogative of the WIPO General Assembly.

295. Mr. MIAH (Bangladesh) said that Bangladesh sought to improve its IP system. His country was in the process of amending IP legislation in conformity with treaties administered by WIPO and the TRIPS Agreement. The IP Offices of Bangladesh would be automated with the help of WIPO and the Government. The Delegate pointed out that Bangladesh was receiving continuous support from WIPO. He expressed the expectation that WIPO would continue on the path of improvement and development in the interest of the IP system of Bangladesh. The Delegate was confident that the Conference would be a success. The Singapore Declaration would be historic. Although Bangladesh was not among the signatory countries of the TLT, it hoped to become a signatory country of the Revised TLT in the very near future.

296. Mr. ANDIMA (Namibia) pointed out that, with regard to the level of development of the IP system, the situation in Namibia did not differ from other African countries. For this reason, the Delegation of Namibia associated itself with the opening declaration presented by the Delegation of Nigeria on behalf of the African Group. He recognized that Namibia was part of a dynamic society and had to conform to the laws governing international trade in order to reap the economic benefits emanating from global arrangements.

297. The Delegate stressed that the adoption of a Revised TLT was not problematic for Namibia. The subsequent implementation of the Treaty, however, did pose new challenges to the country. He noted that the Revised TLT was a technology-based Treaty in terms of practical implementation. The registering Office, trademark owners, holders and agents, as well as consumers had to be prepared for the dynamics that were brought about by the Treaty under consideration. Adherence to the Treaty would thus depend on compliance of the Treaty with domestic legislation in Namibia and the technological advancement required to fulfill the Treaty obligations.

298. The Delegate expressed the belief that one of the outcomes of the important negotiations at the Conference would be the developmental aspects of the implementation of this Treaty in the Member States of WIPO. He anticipated that the Treaty would put this obligation to the International Bureau for implementation purposes. The outcome of the WIPO Development Agenda and its implementation would be a catalyst in encouraging Namibia to become a signatory and to adhere to the Revised TLT.



299. Mr. KHANH (Viet Nam) pointed out that Viet Nam had started protection of trademarks many years ago, during which time the legislation on trademark protection had been continuously improved. The number of trademark applications had been continuously increased. Viet Nam had joined the Madrid Agreement and would accede to the Madrid Protocol shortly. In November 2005, the National Assembly of Viet Nam had passed an IP law containing articles regarding the protection and enforcement of trademarks. That constituted the first IP law in Viet Nam and would enter into force in July 2006. For the time being, the competent agencies of Viet Nam were drafting regulations to implement the law. It was expected that these implementing regulations would be promulgated by the competent authorities by July 2006. As to the drafting of the implementing regulations, the contents of the TLT as well as the Revised TLT provided a good reference point for the further simplification of trademark registration procedures. With the new legal documents, Viet Nam was confident that the efficiency of trademark protection would be further increased in the near future. The Delegate thanked WIPO for valuable assistance extended to Viet Nam. He expressed the hope that his country would enjoy further assistance from WIPO in the future, and wished the Conference great success.

300. Mr. TCHINGONBE (Chad) said that his Delegation hoped that the aims of the Conference would be realized, i.e. the adoption of the Revised TLT. He added, however, that his Delegation firmly supported the statements made by the African Group and the Group of LDCs concerning the implementation of the Treaty. Those groups hoped that developed countries would accompany the efforts of the developing countries and LDCs by providing them with technical assistance in the field of new communication technologies.

301. Mr. DIMOGERONTAS (Greece) recalled that Greece had signed the TLT in 1994 and, since 2000, had been a member of the Madrid Union. He said that Greece appreciated the important work that WIPO did in the field of international IP protection, and had devoted attention to the harmonization of trademark law in general. He expressed the belief that the Revised TLT would simplify trademark procedures for the benefit of users and facilitate the communication of the offices of Member States. He informed the Conference that Greece was in the process of amending its national law on trademarks with a view to facilitating the implementation of the Revised TLT and benefiting from its potential advantages in the future.

302. Mrs. FULE-ANOTA (Philippines) emphasized that the Philippines attached high importance to the success of the Diplomatic Conference. He recognized that there was a need to update the TLT in order to keep pace with changing times. However, as the revision of the TLT would inevitably involve the introduction of advanced methods and practices, it was the hope of the Philippines that the technological limitations faced by developing countries and LDCs would be recognized by providing them with the necessary assistance to comply with the obligations of Contracting Parties under the Revised TLT. He believed that the success of the Revised TLT should not only be measured by the number of signatories it would garner upon adoption of the Final Act. More importantly, he wished to see the Treaty as a living document which would continue to attract and generate interest among countries which were not Contracting Parties and may decide to join at a later date. He stated that the Delegation of the Philippines fully supported the Diplomatic Conference and was ready to cooperate in order to achieve its successful conclusion.

303. Mr. KOUROUMA (Guinea) said that his Delegation wished to assure the President of its unwavering support in the conduct of the work of the current Assembly. He also specified that his Delegation wished to thank the Government of Singapore and WIPO for the efforts undertaken in the implementation of the work of the Conference.

304. Mr. ABDUL RAZAB (Malaysia) recalled that it was the aim of the Revised TLT to achieve the simplification and harmonization of trademark procedures, and enhance the user-friendliness of registration systems in Member States. In his view, the Treaty was among the most important instruments in international trade ensuring the smooth flow of trademarked goods and services. He said that Malaysia was looking forward to the conclusion of the Revised TLT. The Delegation of Malaysia was fully committed to this aim and sought to support its attainment. He indicated that Malaysia was hoping to accede to the important new Treaty in the near future.

305. Mr. SIBANDA (ARIPO) recalled that the African Regional Intellectual Property Organization (ARIPO) was an intergovernmental organization charged with the harmonization, promotion and development of intellectual property among its Member States. Currently, the following 16 Member States were party to the Lusaka Agreement which established the Organization: Botswana, The Gambia, Ghana, Kenya, Lesotho, Malawi, Mozambique, Namibia, Sierra Leone, Somalia, Sudan, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe. He pointed out that the protection of IP rights in the Member States of ARIPO was being enhanced through protocols which established procedures enabling multi-country IP protection through a single application deposited with the central authority or through individual Member States.

306. The Delegate said that, in the field of trademarks, a centralized registration system for protection in designated states was provided for under the Banjul Protocol. The Protocol had been adopted by the Administrative Council of ARIPO at its seventeenth session which had been held in Banjul, Gambia. Currently, the following eight Member States had ratified or acceded to the Banjul Protocol: Botswana, Lesotho, Malawi, Namibia, Swaziland, Uganda, Tanzania and Zimbabwe. He stressed that efforts were being made to ensure that all Member States became party to the Banjul Protocol as well as to ensure that the Banjul Protocol became more attractive and user-friendly. Within the African context, mutual recognition of filings of ARIPO and OAPI trademark applications was under consideration. Once accepted, this would facilitate and simplify the implementation of the Revised TLT.

307. The Delegate pointed out that the Banjul Protocol had been adopted during the negotiations on the TLT with a view to completing the cycle of harmonization of industrial property by ARIPO and achieving self-sustenance by generating revenue for ARIPO and its Member States. During the eighteenth session of the Administrative Council of ARIPO held in Kampala, Uganda from November 14 to 18, 1994, the Council had strongly recommended that the Secretariat of ARIPO should at a later stage review the Banjul Protocol in the light of the TLT. In accordance with the Council's recommendation, the Secretariat of ARIPO had followed closely the developments and deliberations in the SCT in which the TLT had been an agenda item.

308. The Delegate said that, having followed closely the deliberations in the SCT, which culminated in a revised text for adoption at the present Diplomatic Conference, it was in the interest of ARIPO to ensure that its Member States became signatories to the Revised TLT in order to enable a complementary relationship between the Banjul Protocol and the new

international instrument. It was also in the vested interest of ARIPO to ensure that its status was elevated so as to afford membership to the Revised TLT in order to enable full participation comparable to the status obtained under the Patent Cooperation Treaty.

309. He announced that the Conference would be called upon to determine the status of ARIPO in the final text of the Treaty. ARIPO had in its possession the credentials necessary to append its signature to the final text. The attendance by ARIPO as a Special Member Delegation was a clear indication of ARIPO's support towards African initiatives aiming at the improvement of the business environment in Africa through a harmonized international legal framework for the protection of trademarks.

310. Mr. GEVERS (ECTA) recalled that the European Communities Trade Mark Association had been specifically set up 25 years ago in view of the Community Trade Mark Regulation and the Community Design Regulation. It presently has more than 1,400 members who are professionals specialized in trademarks and designs, coming from 85 countries and principally from the 25 Member States of the European Union.

311. The Representative expressed the gratitude of ECTA for having been accepted by WIPO at a very early stage as a non-governmental organization. In recent years, the Association had met the officials of WIPO on a yearly basis to express the wishes of trademark and design owners and their advisers. These meetings have become even more important since the establishment of the link between the Madrid Protocol and the Community Trade Mark and in view of the future link between the Hague Agreement and the Community Design Regulation.

312. The Representative emphasized that ECTA supported WIPO for its continued efforts to ameliorate international legislation on industrial property and achieve improved and more harmonized protection. He said that all efforts to harmonize and simplify procedural matters which helped trademark owners and design owners were to be applauded and encouraged. The present Diplomatic Conference was a very good example of the efforts undertaken by WIPO. The Conference, therefore, received the full support of ECTA which hoped for a successful revision of the TLT.

313. The PRESIDENT indicated his intention to close Agenda Item 10 because the Conference had already entered the closing phase. He invited delegations who wished to have their position reflected in the records of the Conference to submit their declarations to the International Bureau in writing. He emphasized that, in the following week, when ministers were in Singapore, he would offer the possibility to make statements during the meeting of the Plenary.

314. The PRESIDENT closed Agenda Item 10.

315. The PRESIDENT stressed with regard to Agenda Item 11 that the Conference had made good progress. Main Committee II had completed work on Articles 23 to 32. All these Articles had been sent to the Drafting Committee. He thanked Professor Otieno-Odek for his able, wise and efficient chairmanship of Main Committee II. Main Committee I had completed its consideration of Articles 1 to 22 with the exception of Article 5 relating to the filing date, Article 6 relating to the single registration for goods and services and Article 8 relating to communications. He thanked Mr. Schrock for his able and intensive work as

Chairman of Main Committee I. It was his understanding that the Conference was close to an agreement on the outstanding Articles. He underlined the constructive and cooperative approach taken by delegations. The Drafting Committee had been working intensively under the able and efficient leadership of Mrs. Road d'Imperio. He expressed his gratitude for her work and the work of the Drafting Committee.

316. As to the horizontal issues, as defined at the second meeting of the Plenary, the President informed the Plenary of intensive and encouraging informal consultations. He was confident that a solution could be found that was acceptable to all countries, and invited all delegations to build a consensus around the proposals and ideas that had been tabled. He emphasized that the adoption of the Treaty by consensus would send a strong signal to the international community that all delegations had been working hard and had been working together in Singapore in order to reach an agreement that all delegations could be proud of.

317. He pointed out that the negotiations at the Conference had entered an important and crucial moment. There was momentum and there was goodwill to work together. He recalled that, next week, several ministers would be coming to Singapore. They were coming in the expectation of signing the Final Act and adopting the Revised TLT. He therefore expressed the hope that the Conference could progress as much as possible.

318. The PRESIDENT adjourned the meeting.

Fifth Meeting Friday, March 24, 2006 Evening
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319. The PRESIDENT informed the Plenary that he had convened the meeting in order to offer information on the various intensive informal consultations that had taken place during this day and the previous day. He pointed out that the Conference had reached a stage where there were only a few outstanding issues. An agreement on the Treaty and its Regulations was within reach. The Conference was also near an agreement on a separate document containing a Resolution. He expressed the hope that the final solution would be acceptable to all groups and all delegations. The informal consultations had shown a positive, constructive, open-minded and flexible approach taken by delegations. Everyone remained committed to the objective of the Conference, namely the adoption of the Treaty and related documents by consensus. He emphasized that an agreement adopted by consensus would send a very powerful signal to the international community that the Conference worked intensively to find a balanced solution. He thanked all coordinators of the various regional groups and the various delegations and individuals who had offered their advice, help and support in the course of the informal consultations.

320. Mr. AYALOGU (Nigeria), speaking on behalf of the African Group, expressed his gratitude for the efforts made by the President and the other regional groups in the course of the informal consultations. He indicated that the African Group would keep engaged in the process of ensuring that the outcome of the Conference would be a fair treaty.

321. The PRESIDENT thanked the Delegation of Nigeria for its encouraging intervention.

322. Mr. ENÄJÄRVI (Finland) pointed out that meetings of the Plenary would require a quorum of at least half of the delegations.

323. The PRESIDENT assured the Delegation of Finland that, when convening meetings of the Plenary, the Rules of Procedure and, in particular, Rule 19 regarding the quorum, would be observed.

324. The PRESIDENT adjourned the meeting.

Sixth Meeting Saturday, March 25, 2006 Afternoon
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325. The PRESIDENT informed the Plenary that he intended to share the results of the informal consultations with the delegations. He emphasized that he was encouraged by the very positive attitude shown in the course of the consultations and the general commitment to the success of the Diplomatic Conference. All delegations were committed to adopting a good outcome at the end of the Conference. He indicated that the good progress made at the Conference had led to a set of three documents.

326. Mr. RUBIO (WIPO) explained that, since the Plenary met on Wednesday afternoon, three Conference documents had become available. The first of these documents was document TLT/R/DC/24 entitled “Draft Singapore Treaty on the Law of Trademarks”. This document had been produced by the Drafting Committee, and was ready for consideration by Main Committees I and II. The second document was document TLT/R/DC/25 which had also been produced by the Drafting Committee. It was entitled “Draft Regulations Under the Singapore Treaty on the Law of Trademarks” and was ready for consideration by Main Committee I. He pointed out that a third document had been made available which carried the code number TLT/R/DC/26. The title of this latter document was “Draft Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder”. The document contained a proposal submitted by the regional group coordinators on behalf of the regional groups.

327. The PRESIDENT clarified that it was not his intention to formally introduce or consider any of these documents. The present meeting served exclusively an informative purpose. He pointed out that the Conference had made considerable progress since the previous meeting of the Plenary. He expressed gratitude to all regional group coordinators who had worked very closely in order to construct a good consensus and a good outcome for all delegations at the Conference.

328. With regard to document TLT/R/DC/26, containing a Draft Resolution which had been proposed for adoption by the Diplomatic Conference, he stressed that there was broad agreement on the following points: first, there was agreement among all regional groups on

the Draft Resolution, as it appeared in document TLT/R/DC/26. Second, he felt that there was agreement that the Draft Resolution provided the basis for all regional groups to move forward to adopt the outcome of the Conference, which comprised the Treaty, the Regulations, the Draft Resolution and, in addition, the Final Act. Third, he noted that there had been broad agreement that the Draft Resolution was to be tabled jointly by all the regional group coordinators on behalf of the regional groups. All regional group coordinators had been in agreement on this particular way of tabling the document. Fourth, he informed the Plenary that there was agreement that, at the time of formally introducing, considering, and taking action on the Draft Resolution, the regional coordinators would make statements in presenting their joint proposal.

329. He noted that all three documents would first be presented in the Main Committees before being submitted to the Plenary. He believed that the set of three documents –the Treaty, the Regulations and the Draft Resolution– constituted an outcome that was good for all delegations. The documents reflected the various suggestions and proposals made by delegations. Each delegation had a stake in the documents because it had had a role in creating and shaping that outcome. He underlined that about 150 delegations had been working together to establish this joint outcome. They had shown a mentality of give and take and had worked together in a spirit of flexibility.

330. The PRESIDENT recalled that the adoption of the three documents TLT/R/DC/24, 25 and 26 would have important consequences for WIPO as an international organization and for the international cooperation in the field of intellectual property. The outcome reflected in these documents would be different from any previous outcome of a WIPO Diplomatic Conference. It was a ground-breaking outcome that had jointly been produced by all delegations, and that was good for developed and developing countries alike.

331. The PRESIDENT adjourned the meeting.

Seventh Meeting Monday, March 27, 2006 Afternoon
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332. The PRESIDENT opened the Plenary meeting. He invited the International Bureau to provide information on documentation.

333. Mr. RUBIO (WIPO) said that two documents were submitted for consideration of the Conference meeting in Plenary. These documents had the following codes: TLT/R/DC/28 and TLT/R/DC/29 Prov. The first document was entitled “Draft of the Singapore Treaty on the Law of Trademarks, Draft of the Regulations under the Singapore Treaty on the Law of Trademarks and Draft Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder”. He pointed out that these three drafts were being proposed to the Conference for consideration by Main Committees I and II. The second document that was being proposed for consideration by the

Conference meeting in Plenary was document TLT/R/DC/29 Prov. which had the title “Draft Final Act”. He explained that this document had been submitted to the Conference by the Steering Committee.

334. The PRESIDENT pointed out that he had convened the Plenary meeting in order to consider Agenda Items 11 (Consideration of the Text Proposed by the Main Committees), 13 (Adoption of the Revised Trademark Law Treaty and the Regulations) and 14 (Adoption of any recommendation, resolution, agreed statement or final act). He proposed that the Plenary should consider Agenda Item 12 (Consideration of the Second Report of the Credentials Committee) at the next meeting of the Plenary and not at this meeting.

#### Consideration of the Text Proposed by the Main Committees

335. He drew the attention of the Plenary to the report in document TLT/R/DC/28 that had been proposed to the Plenary by Main Committees I and II. The report contained in TLT/R/DC/28 referred to three documents: the Draft of the Singapore Treaty on the Law of Trademarks, the Draft of the Regulations under the Singapore Treaty on the Law of Trademarks and the Draft Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder. The President invited regional coordinators to make statements on behalf of their regional groups. He proposed that the Plenary should adopt the three documents identified in document TLT/R/DC/28 after the interventions by group coordinators.

336. Mr. FRAEFEL (Switzerland), speaking on behalf of Group B, stated that the Group recognized the extensive work that had been done in order to produce the draft Resolution, as contained in document TLT/R/DC/26. He said that Group B was grateful to all parties for their open and constructive approach that had enabled the Diplomatic Conference to reach this point.

337. He pointed out that Group B recognized that the process of drafting the proposed Resolution had required compromises on all sides. The Group believed that the draft Resolution was a balanced solution. For this reason, the Member States belonging to Group B were prepared to commit their support to document TLT/R/DC/26. He specified that the members of Group B remained committed to providing technical assistance and appropriate capacity building for the implementation of the Singapore Treaty on the Law of Trademarks.

338. The Delegate expressed the belief of Group B that the Resolution formed an integral part of the outcome of the Diplomatic Conference. Group B recognized and underlined the significance and importance that all sides attached to it.

339. He indicated that it was the desire of Group B that as many nations as possible found themselves able to adopt the Treaty. The Group recognized that many developing countries and LDCs would need technical assistance in order to implement the Treaty. He stated that the Resolution gave expression both to that recognition and to the ongoing commitment of Group B to provide technical assistance to help countries do what was necessary to implement the Treaty.

340. The Delegate said that Group B had been asked to explain what it believed the status of the Resolution to be. He explained that, under the Vienna Convention, the agreed Resolution formed part of the context in which the Treaty had been adopted and, as such, it required that the Treaty be interpreted in the light of the Resolution. He stressed that the members of Group B took the commitments in the Resolution seriously. The Resolution supplemented and therefore supported the Treaty and its Regulations. Group B remained committed to technical assistance in the implementation of the Treaty. It was committed both presently and in the future to this goal.

341. The Delegate reiterated that Group B believed that the Resolution was an integral part of the outcome of the Diplomatic Conference. Therefore, the Group committed its support to the Resolution.

342. Mr. AYALOGU (Nigeria), speaking on behalf of the Group of African countries, informed the Conference that the members of the African Group had no difficulty in adopting the text of the Resolution as it presently stood. He pointed out that the Group had devoted several hours and days of discussion to the Resolution and saw the possibility of compromise on its adoption.

343. He stressed that the African Group had reached consensus on facilitating the advancement of the negotiation process. The Group had held constructive negotiations with other delegations and regional groups. The Delegate specified that the Group had spent long nights in examining the precise meaning of the words, phrases and sentences to situate the different elements in the proper context.

344. He informed the Conference that the African Group held the view that any document adopted in the course of the Conference should be accorded recognition in the final Treaty. This was only logical and in accordance with well-established practice. The African Group noted, for instance, that the draft Regulations under the Singapore Treaty for the Law of Trademarks had been mentioned both in the Rules of Procedure and the Agenda of the Conference. More significantly, they were mentioned in the Basic Proposal. The Group also noted that the Rules of Procedure and the Agenda of the Conference made reference to the adoption of any recommendation or resolution. He felt that this seemed to indicate that no provision had been made for that being mentioned in the Treaty.

345. The Delegate expressed the concern of the African Group with regard to the substance and relevance of the Resolution in the context of the Treaty. It was in the light of this concern that the African Group had supported the proposal to amend Article 31, as originally tabled by the African Group, or any other relevant Article of the Treaty in order to refer to the Resolution. To facilitate the consensus across regional groups, the African Group resolved that not every proposal could be accommodated within the Treaty. It was the view of the Group that the relevance of the Treaty laid in the ability and willingness of Contracting Parties to faithfully and diligently implement the provisions of the Resolution.

346. He stressed, therefore, that the African Group understood that the word “supplementary” in the title of the Resolution meant that the Resolution was an important factor in the interpretation and implementation of the Treaty and its Regulations. This understanding was based on the provisions of Articles 31 and 32 of the Vienna Convention on the Law of Treaties.



347. In supporting the draft Resolution, the African Group furthermore wished to reiterate the linkage between the implementation of the Singapore Treaty on the Law of Trademarks and the provision of adequate technical and other forms of assistance. The Group noted with satisfaction that the statement made by the Delegation of Switzerland on behalf of Group B made it clear that the members of Group B, in application of the Resolution attached to the Treaty, were committed to the provision of technical assistance to developing countries and LDCs especially in the implementation of the Treaty.

348. The Delegate clarified that the African Group was of the view that issues concerning the implementation of the Treaty, as reflected in the annexed special Resolution, were manifold. First, the commitment of the developed countries to grant technical assistance needed to be assured. Second, the role that WIPO and the International Bureau played in this process had to be spelled out clearly. They should make adequate budgetary and other resources available to support the effort of developing countries and LDCs in implementing the Treaty. Third, the Assembly of the Singapore Treaty on the Law of Trademarks should provide the permanent policy mechanism for reviewing and monitoring all assistance and support provided either by developed countries or by WIPO. This was a basic principle of the Resolution.

349. The Delegate underlined that, to all intents and purposes, the African Group regarded the Resolution supplementary to the Singapore Treaty on the Law of Trademarks as an integral part of the interpretation and implementation of the said Treaty. All this contributed to universalizing the Treaty. He stated that, on the basis of this understanding, the African Group joined in supporting the draft Resolution and the statements by regional coordinators.

350. Mr. TOPIĆ (Croatia), speaking on behalf of the Group of Central European and Baltic States, recalled that the regional Group comprised 15 states, out of which 14 were represented at the Conference. He emphasized that 67 per cent of the Member States belonging to the Group of Central European and Baltic States were members of the TLT. The percentage of membership in the Madrid Union was 100 per cent. He said that these figures gave evidence of the full involvement of the Group in all developments in the international trademark arena.

351. The Delegate added that the percentage of membership of the states belonging to the Group was 100 per cent in the case of the Patent Cooperation Treaty, about 95 per cent in the case of the Rome Convention, almost 90 per cent with regard to the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty and so forth. He stressed that these figures, in general, testified to the interest of the Group in the active participation in and adherence to all relevant international instruments in the field of intellectual property.

352. He said that these figures were relevant to the statement concerning the Resolution because they showed that the mere fact that the Group had not submitted any proposal concerning the topics which had wisely been labeled "horizontal issues" by the President, should not in any way be misunderstood to imply negligence or lack of interest of the Group in all the issues concerned.

353. He emphasized that, on the contrary, the Group had taken part actively and constructively in the consultations to facilitate the harmonization of different proposals and to support the process of reaching a common position that could jointly be submitted.

Document TLT/R/DC/26 fulfilled the wish of the Group to express sincere political commitment to cooperate fully with all future members of the Singapore Treaty on the Law of Trademarks in all respects directly or implicitly related to its implementation.

354. The Delegate pointed out that the Group of Central European and Baltic States had delicately reflected the interests of countries which were different in several respects. Nevertheless, it was the unanimous view of the Group that, with the texts of the Treaty, the Regulations and the proposed Resolution, the Conference would take a significant step forward not only in raising standards of international trademark law, but also in the further facilitation of international trade and the improvement of the climate for investment and development.

355. Mr. OMOROV (Kyrgyzstan), speaking on behalf of the Group of Central Asian, Caucasus and Eastern European countries, expressed support for the draft Resolution. He pointed out that most of the members of the Group were Contracting Parties to the TLT. At the Diplomatic Conference, five countries from Central Asia, Caucasus and Eastern Europe were present. He emphasized that the negotiations on the draft Resolution to the Treaty had been extremely difficult.

356. He stressed that the different groups had reached a reasonable compromise with the constructive participation of the Group of Central Asian, Caucasus and Eastern European countries. He believed that the Resolution would promote the further development of international cooperation in the protection of trademarks.

357. The Delegate recalled the earlier intervention of his Delegation in Main Committee I and reiterated that, in the Russian version of documents TLT/R/DC/24 and 25, there were certain inaccuracies. In particular, he drew the attention of the Plenary to the fact that, in the Russian version, the title of the Resolution needed to be corrected.

358. The PRESIDENT confirmed that the information regarding the inaccuracies in the Russian text had been duly noted and would be corrected.

359. Mr. MEJÍA GUEVARA (Honduras), speaking on behalf of GRULAC, said that the Group emphasized the importance of the TLT and therefore supported the negotiation of the Treaty. The Delegation considered it reasonable for the Treaty to include aspects of assistance in accordance with the Resolution so as to allow and facilitate its implementation in developing countries and the LDCs. He added that GRULAC anticipated that the Diplomatic Conference would be successful and expressed its flexibility regarding the inclusion of the Resolution on horizontal issues, either as a preamble or as part of any other Treaty document.

360. Mr. GANG (China) said that the Delegation of China, as the co-sponsor of the draft Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulation Thereunder, as proposed by the regional groups, sincerely hoped that the various delegations would support this proposal to expedite the adoption of the draft Resolution and pave the way for the adoption of the Singapore Treaty on the Law of Trademarks.

361. He expressed the belief of the Delegation of China that the fair, reasonable and balanced development of the international trademark law system and the corresponding regulatory system was a major task to be fulfilled by the various nations in order to enhance the standard of trademark protection and to promote economic exchange. He recalled that there was still a wide gap between developed and developing countries and, in particular, the LDCs in terms of economic development and deployment of information technology. This substantial difference resulted in a corresponding gap between the offices of the various countries in terms of institution building, the level of computerization, as well as trademark management.

362. The Delegate expressed the view that such imbalances had already adversely affected the level of international trademark protection, the economic exchanges between countries and the sustainable development of the world economy. He emphasized that, if the gap was allowed to be widened, it would further undermine the world's economic order and its economic development.

363. He believed that delegates from different countries should be well-aware of this situation. In his view, developing countries should strive to accelerate their economic development, raise the standard of institution-building and management in their respective offices, and actively learn from the developed countries. As to the developed countries, they should give greater financial and technical support to developing countries in terms of legislation, training, institution-building and the deployment of information technology. The Delegate said that developing and developed countries should enter into further dialogue and exchange, coordination and consultation. His Delegation believed that history and reality had already proven that dialogue and exchange, coordination and consultation could help to achieve unity and cooperation. He stressed that it was of utmost importance to reach consensus and resolve disputes.

364. The Delegate pointed out that the Singapore Treaty on the Law of Trademarks was the result of cooperation and discussions among the Member States of WIPO in the area of trademarks. Equally, the supplementary draft Resolution proposed by the various regional groups was the positive result of thorough negotiations and an intensive exchange of views by the President, the officers of the Conference, the regional coordinators and the various delegations. The Delegation of China greatly appreciated the spirit of unity, cooperation, flexibility and pragmatism demonstrated by the previously-mentioned parties throughout the negotiation process. The Delegate expressed gratitude to the President for his outstanding work and exemplary leadership during the whole process. He believed that the successful completion of the Diplomatic Conference and the adoption of the relevant documents would serve as a good example for the enhancement of cooperation and mutual development in the area of trademarks throughout the world.

365. Mr. GHORBANI (Islamic Republic of Iran), speaking on behalf of the Asian Group, stated that the Group supported the adoption of the Singapore Treaty on the Law of Trademarks and its Regulations. With regard to the Resolution, he expressed gratitude to the President for all the efforts he had made from the beginning of the Diplomatic Conference. He said that the President had followed the issues addressed in the Resolution very seriously. His good management as well as his patient and direct contact with the different regional groups had played a crucial role in shaping the Resolution. He recalled the compressed and hard negotiations which, with the great flexibilities of regional groups, had yielded good results.

366. The Delegate pointed out that the Resolution was a compromise text which had the following noteworthy and positive points: the Resolution acknowledged that the Treaty dealt with formality procedures. Accordingly, it was understood that, in developing the Treaty and its Regulations, the harmonization of substantive matters would not be on the Agenda of the Assemblies. In developing the Treaty and its Regulations, the optional nature of the Treaty, even as to formality procedures, would be maintained as well. It was recognized in the Resolution that the registration of new types of marks, electronic filing systems and other concerns of developing countries would be dealt with by choosing optional solutions.

367. The Delegate stressed that the Resolution reflected further positive aspects. It recognized the level of technological and economic development of Member States in the field of trademarks and the necessity of narrowing the technological and digital gap between developed and developing countries. It was important to exchange and share experiences on different aspects, not only on the implementation of the Treaty, but also on opportunities and benefits in order to take full advantage of the Treaty. He underlined that paragraph 4 of the Resolution reflected the commitment of Member States to provide help with regard to the proper implementation of the agreed principles concerning the implementation of the Treaty in order to take full advantage of the provisions of the Treaty.

368. The Delegate recalled that, with regard to the status of the Resolution, a statement had been made by the Delegation of Switzerland on behalf of Group B which the Asian Group considered to be an encouraging one. The Group took this statement seriously. The commitment to the implementation of the Resolution would enhance confidence between Member States. It was a good precedent for future work between Member States and regional groups that would encourage as many Member States as possible to become engaged in the process.

369. The PRESIDENT thanked the Delegation of the Islamic Republic of Iran for its intervention on behalf of the Asian Group. He appealed to the Delegation of Benin, wishing to speak on behalf of the LDCs, to make its statement after the adoption of the Treaty, the Regulation and the Resolution. It was his understanding that the statements made on behalf of the regional groups reflected the views, concerns and the understanding of the various groups. He proposed that the Conference should take note of these statements which would be reflected in the official records of the Diplomatic Conference.

Adoption of the Revised Trademark Law Treaty and the Regulations and of any Recommendation, Resolution, Agreed Statement or Final Act

370. The PRESIDENT recalled that, in document TLT/R/DC/28, there were three documents for adoption. The text of the draft of the Singapore Treaty on the Law of Trademarks, the draft of the Regulations under the Singapore Treaty on the Law of Trademarks and the draft Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder. The three documents were part of a very delicately balanced package of outcomes of the Diplomatic Conference. It was the understanding of the President that the Resolution formed an integral part of the outcome of the Conference. He recognized that the package of documents may not satisfy everyone. However, it constituted the best possible compromise at the Conference. It was the only middle ground which he could see and the only middle ground that he believed could allow the Conference to complete its work successfully.

371. The PRESIDENT expressed his conviction that the package of three documents was a good and balanced outcome for all Member States. He recommended to accept and adopt this compromise. He proposed that the Conference should adopt the draft of the Singapore Treaty on the Law of Trademarks, the draft of the Regulations under the Singapore Treaty on the Law of Trademarks, and the draft Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder, as contained in document TLT/R/DC/28. He asked whether the texts gave rise to any objections. Such not being the case, *he declared the Singapore Treaty on the Law of Trademarks, the Regulations under the Singapore Treaty on the Law of Trademarks and the Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder to be adopted by consensus.*

372. The PRESIDENT expressed gratitude for the adoption of the Treaty, the Regulations and the Resolution, as contained in document TLT/R/DC/28. He drew the attention of the Conference to document TLT/R/DC/29 Prov. containing the draft Final Act of the Conference, as submitted to the Conference, meeting in Plenary, by the Steering Committee. He explained that draft Final Act was a standard document and a factual document that was adopted at the end of WIPO diplomatic conferences. The text of the present draft was based on the format of previous draft Final Acts, adopted at previous WIPO diplomatic conferences. The document was a provisional document because the date of the conclusion of the Conference depended on when the work of the Conference would be completed. He proposed that the Conference should adopt the draft Final Act, as submitted to the Conference by the Steering Committee and reproduced in document TLT/R/DC/29 Prov. He asked whether the draft Final Act gave rise to any objections.

373. Mr. OMOROV (Kyrgyzstan), speaking on behalf of the Group of Central Asian, Caucasus and Eastern European countries, wondered whether, in the second paragraph, it would be necessary to refer not only to the Treaty but also to the Regulations.

374. Mr. KWAKWA (WIPO) said that reference was made only to the Treaty, because the Treaty itself incorporated the Regulations. The Regulations were defined in the Treaty as being an integral part of the Treaty. For this reason, there was no separate reference to the Regulations. In the third paragraph, on the other hand, there was a reference to the Resolution reflecting simply the name of the Resolution being adopted by the Conference.

375. Mr. ULLRICH (Austria) wondered whether the numbers of the series of meetings of the General Assembly of WIPO given in document TLT/R/DC/29 Prov. were correct.

376. Mr. KWAKWA (WIPO) confirmed that these series of meetings had indeed been the fortieth series of meetings in September 2004 and the forty-first series of meetings in September 2005.

377. The PRESIDENT asked again whether the draft Final Act gave rise to any objections. Such not being the case, *he declared the Final Act to be adopted by consensus.*

378. He thanked the Delegation of Benin, wishing to speak on behalf of the LDCs, for its indulgence and flexibility. He recognized that the LDCs had always been an important part of the Conference, in which they had participated actively. He expressed gratitude for their contribution to the work and success of the Conference.

379. Mr. AMEHOU (Benin) said that the LDCs were attending the current Conference full of hope and with a firm willingness to see the negotiations result in the signing of the Treaty and the Final Act.

380. He said that the initial proposals of the LDCs submitted for evaluation by participants included two main requests. Firstly, the inclusion in the Treaty of provisions granting those countries a certain latitude and allowing them to implement the Treaty gradually, depending on the development and strengthening of their capacities. He considered that the participants in the Conference were fully aware of their financial and institutional difficulties, as well as those existing in the field of human resources.

381. Furthermore, he said that the LDCs had expressed the wish to receive technical assistance so as to implement the Treaty effectively.

382. He said that by overcoming the reservations that they might have had in relation to the solutions to their concerns, the LDCs, in a spirit of compromise, accepted the provisions contained in the Resolution included in document TLT/R/DC/26 of March 25, 2006, which had been submitted by Nigeria on behalf of all the Regional Groups. In conclusion, he hoped that the participants in the Conference, in particular parties to the Treaty, had recognized the specific needs of LDCs and would as a result take the measures necessary to deal with the situation.

383. The PRESIDENT thanked the Delegation of Benin, speaking on behalf of the LDCs, for its flexibility and understanding. He took note of the statement made by the Delegation of Benin on behalf of the LDCs which would also be reflected in the official records of the Diplomatic Conference. The points that the Delegation had made about the participation of LDCs were important. In his view, they provided a basis for reflection among the Member States of WIPO. He expressed the hope that this matter would be reflected upon and acted upon in Geneva.

384. The PRESIDENT adjourned the meeting.

MAIN COMMITTEE I OF THE DIPLOMATIC CONFERENCE FOR THE  
ADOPTION OF A REVISED TRADEMARK LAW TREATY

Chair: Mr. Li-Feng Schrock (Germany)

Secretary: Mr. Marcus Höpperger (WIPO)

First Meeting Wednesday, March 15, 2006 Morning
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1. The CHAIR thanked the delegations for having entrusted to him the task of chairing Main Committee I, and considered this an honor for his country and a privilege for himself. He said that he hoped his Chairmanship would live up to the expectations of all delegations.
2. He noted that the task of Main Committee I was to deal with the substantive provisions of the Treaty, as contained in Articles 1 to 22 of the Basic Proposal. By way of introduction, the Chair recalled that the present Conference had the advantage of basing itself on two pillars to support its work: firstly, the Revised TLT was meant to replace the TLT currently in force. However, the aim of this exercise was to complement and further develop the TLT 1994. Thus, certain provisions in the Basic Proposal for the Revised Treaty were congruent with the text of the existing TLT. To the extent that these provisions had been confirmed during the process of development of the Basic Proposal it was his understanding that –as a general rule– such provisions would meet broad support and would be challenged only in very exceptional cases.
3. The second pillar was the result of the work done by the WIPO SCT in preparation for the Conference. He recalled that the SCT had worked on draft proposals for a Revised TLT as from May 2002. Over a period of seven sessions, the SCT considered the provisions already existing in the TLT as well as the addition of new provisions. At its 14th session held in Geneva in April 2005, the SCT agreed on the drafts for a Revised Treaty and Revised Regulations. In this context, he highlighted another important principle. In their opening remarks, several delegations said that the Revised Treaty should strike a fair balance of interests to make sure that eventually all stakeholders would benefit from this international instrument. He was well aware that IP law was not an end in itself. It was a tool to encourage investment in creativity, reduce transaction costs for the branded goods industry and to facilitate international trade and investment. The Director General of WIPO referred to it as a power tool for economic growth and wealth creation. The SCT was well aware of this dimension of intellectual property when the present Basic Proposal was negotiated.

4. In this context, he wished to highlight that the proposed provisions for the Treaty as well as for the Regulations were approved not only by consensus, but also as “clean drafts”, i.e. drafts that did not contain any text in square brackets or alternative texts for any particular provision. This was certainly due to the fact that fair and balanced solutions were sought and approved in a spirit of constructive cooperation and mutual trust. He was persuaded that the work of the Conference would be characterized by the same approach and dynamics.

5. He called the attention of the meeting to the documents for a Revised Treaty and Revised Regulations that had been submitted by the Director General of WIPO for consideration at the Diplomatic Conference, namely: TLT/R/DC/3 (Treaty Provisions) and TLT/R/DC/4 (the Regulations). He also called the attention of the Conference to the fact that there were corrigenda to document (TLT/R/DC/4), one for the French version and three for the Russian version of documents TLT/R/DC/2, 3 and 4. One additional document had been submitted to the Conference for information purposes (TLT/R/DC/5). It contained Notes on the Basic Proposal. These Notes had been prepared by the International Bureau. The purpose was to explain the Basic Proposal, but the Diplomatic Conference would not work on the Notes and they would not be adopted by this Conference.

6. He then turned to the way of proceeding with the work of the Conference and suggested to run through the text of the Basic Proposal article by article and to deal with the corresponding rules after each article. The Chair also recalled that the Rules of Procedure of the Conference provided that proposals for amendments had to be presented in writing and at least three hours prior to being taken up for discussion.

7. In the absence of any proposal relating to a provision under consideration, the Chair would conclude that Main Committee I had approved the text of the Basic Proposal, and that the provision was adopted *ad referendum*. He also recalled that all texts approved by the Committee would be sent to the Drafting Committee for editorial checking. He noted that, once the Drafting Committee had reviewed a text, it would come back to Main Committee I for approval, as the Drafting Committee could not make any substantive changes to the text. Once approved by the Committee, the texts would be submitted to the Plenary for final adoption.

8. Mr. GHORBANI (Islamic Republic of Iran) expressed his appreciation for the work of the Chair during the preparatory sessions of the SCT, and declared his willingness to continue the fruitful cooperation at the present Conference. Referring to the procedure outlined by the Chair, he wished to point out that the Diplomatic Conference and the SCT were different in nature, and thus, the proceedings at the Conference were necessarily different. In particular, he held the view that, at the Diplomatic Conference one could not close the discussion on particular articles or items after a first consideration. Also, the work would not be finished at the level of Main Committee I, but only after consideration by the Plenary.

9. He referred to Rule 29(2) of the Rules of Procedure adopted by the Conference, concerning proposals for amendment, which provided that any Member State delegation, may propose amendments to the Basic Proposal. That meant that at the Conference, proposals may be made on any article or rule. This would ensure the effective participation of all delegations and particularly, developing country delegations. He also noted that members of some delegations would arrive on the second week of the Conference and proposals concerning certain provisions could still be submitted at that stage.



10. He further noted that, while according to the Article 29(3), any proposals for amendment should be submitted to the Committee at least three hours before so that delegations may consider them, it did not seem timely, at this point to close discussion on any article because proposals had not been submitted, since the Conference had only started and perhaps delegations had not yet had time to submit their written proposals to the Secretariat for distribution.

11. The CHAIR stated that, even where delegations might wish to come back later to any provisions that were already reviewed, it could be a good procedure for the meeting to start its work in numerical order.

#### Article 1: Abbreviated Expressions

12. Mr. OTIENO-ODEK (Kenya) referred to Article 1(v) which provided that “references to a person should be construed as references to both a natural person and a legal entity” and requested whether the final part of the provision could be redrafted to include “and/or” so as to cover both the natural person and the legal entity.

13. The CHAIR considered that this was perhaps a drafting question which could be properly dealt with by the Drafting Committee, although his understanding was that the current drafting already seemed to cover both the natural person and the legal entity.

14. Mr. ARBLASTER (Australia) suggested that, in order to save time, it might be useful to develop a mechanism by which purely drafting issues could be identified and submitted to the Drafting Committee.

15. Ms. SUNKER (South Africa) said that it could be debatable whether a particular point was of drafting or substantive nature. This should be appreciated by each individual delegation, as there may be different views. Rather, delegations should be encouraged to highlight their concerns with regard to the texts.

16. The CHAIR said that while he was sensitive to the concerns expressed by the Delegation of South Africa, it was important not to lose sight of the obligations incumbent on Main Committee I and on the Drafting Committee.

17. Mr. CONSTENLA ARGUEDAS (Costa Rica) commenting on Article 1(iv), said that his Delegation considered that the many different meanings given to the term “communication” caused confusion. To avoid that, the Delegate recommended eliminating the multiplicity of concepts and that the term “communication” should refer or correspond only to the terms “request” or “application” without using the wording “declaration, correspondence or other information relating to an application or a registration”.

18. He said that after noting the relationship between Article 1 and Article 8 indicated by the Chair, his Delegation recognized that in actual fact making a change to Article 1 would affect Article 8 and, in that regard, wished to withdraw the previous observation so that the text was consistent throughout the different articles.

19. Mr. GHORBANI (Islamic Republic of Iran) said that if the Conference was revising the text article by article, delegations could well indicate their concerns first and then submit them in writing to the Secretariat, for their formal submission to the Conference.

20. Mr. BAOLIN (CTA) held the view that the clarification requested by the Delegation of Kenya to Article 1(v) could be included in the Notes, to further facilitate the understanding of the provision.

21. Mr. OTIENO-ODEK (Kenya) noted that Rule 1 also contained definitions and suggested that the Conference consider them in tandem with the definitions in Article 1.

22. The CHAIR confirmed that Rule 1 would be considered together with Article 1.

23. Mr. SHORTHOUSE (United Kingdom) suggested changing the definition in Article 1(xii) to read “‘licensee’ means the person to whom a license is granted”.

24. The CHAIR held the view that the suggestion made by the Delegation of the United Kingdom was perhaps a drafting point and asked delegations whether this point could be submitted to the Drafting Committee. It was so decided.

25. Mr. BISEREKO (Uganda) considered that a definition of “licensor” was probably also needed in Article 1. This term could be used in a document relating to the license outside of the Treaty.

26. The CHAIR noted that the abbreviated expressions related to terms that were used in the Treaty or the Regulations, and it seemed that the word “licensor” was not used in either one of them. Therefore, a definition of this term did not seem necessary.

#### Rule 1: Abbreviated Expressions

27. The CHAIR noted that there were no observations with regard to this provision.

#### Article 2: Marks to Which the Treaty Applies

28. Mr. GHORBANI (Islamic Republic of Iran) said that he wished to reserve his position with regard to this Article, since he may submit proposals on it in the course of the Conference.

#### Article 3: Application

29. Ms. LIEW (Singapore) sought clarification as to whether the indications listed in Article 3(1)(x), constituted a single element or three separate elements and whether a Contracting Party had the freedom to choose one or more or none of the elements. She also sought clarification on point 8.3.1 of Model International Form No. 1 of the Basic Proposal for the Regulations, which requires an indication of the color(s) claimed and 8.3.2 that requires an indication of the part(s) of the mark that are in that (those) color(s). Both indications shared the same Footnote 11 which required the applicant to indicate the name or code of the color claimed. She also noted that there was only one provision in the Regulations, namely Rule 3(2) relating to a claim for color as a distinctive feature of the

mark, but there was no mention relating to a claim for a mark that is a color mark *per se*. Within the Treaty or the Regulations, the equivalent Model International Form No. 1 in the TLT 1994 contained in Parts 8.1 and 8.2 an indication for a claim for color as a distinctive feature of the mark. There was no separate indication for color *per se* as a mark. From these observations, she sought clarification as to whether the indications referred to a mark claiming color or a color *per se* mark.

30. Mr. HÖPPERGER (WIPO) explained that the provisions referred to separate types of marks; one was a mark for which color was claimed as a distinctive feature, and indeed this type of mark was already foreseen in the TLT 1994. In that case, the figurative element of the mark contained some colored portions and under the law of certain countries, it was possible to indicate that the colored portions of the mark constituted a specifically claimed distinctive feature. If an applicant wished to claim that colored portion of the mark as a distinctive feature, it was possible to indicate that in the application. Different from that was a color *per se* mark, which was a relatively recent development that existed in certain countries and not in others. This provision was not contained in the TLT 1994, and was a novelty of the Revised TLT. If certain countries allow a claim of color *per se* in an application, the relevant Form in the Regulations should provide an indication to that effect.

31. Mr. MEJÍA GUEVARA (Honduras) sought a clarification or perhaps another amendment, because he saw the relationship between Article 3 and the concept derived from it, and Article 1(iii). In the latter provision, the concept of application was construed as “application for registration”, but this did not apply for all the other items of paragraph (1) and in particular items (x) to (xii). He thus suggested to list in Article 1(iii) the specific provisions of Article 3(1) to which the abbreviated expression referred.

32. The CHAIR explained, with regard to the suggestion made by the Delegation of Honduras, that the purpose of the definition for “application” in Article 1(iii) was to distinguish an application for registration of a mark from other requests that the Office may receive, for example the request for a copy from the files. Nevertheless, the term application in the sense of the TLT was already a very broad term encompassing all the adjacent indications. So, this could be considered before submitting a written proposal on the provision.

33. Mr. MEJÍA GUEVARA (Honduras) clarified that the objective of his intervention was to get more clarity on the provisions. For example, Article 3(4)(iv) read “the furnishing of evidence to the effect that the mark has been registered...” That implied that another element should be provided and not just the request for registration, as mentioned in Article 3(1). He said that caution should be exercised when considering the implications of Article 3, as the provision seemed to be broader than the concept stated in Article 1(iii).

34. The CHAIR said that with regard to Article 3(4), that provision contained elements which cannot be part of an application because the provision reads that “No Contracting Party may demand other requirements than those referred to in paragraphs (1) and (3) and in Article 8.” Thus, furnishing of evidence to the effect that the mark has been registered in another country, for example, could not be part of the application because it was banned under this Article, which was not a new feature for the Revised TLT but a basic element of the TLT 1994. Thus, the definition contained in Article 1(iii) would not apply with regard to Article 3(4).

35. Mr. PARKES (FICPI) held the view that the intervention made by the Delegation of Singapore concerning Article 3(1)(x) referred to whether the three indications listed in that sub-paragraph were alternatives. He referred to the version of this Article that was presented in document SCT/14/2 of the fourteenth session of the SCT and said that in that draft the indications were three separate sub paragraphs (ix), (x) and (xi), indicating three different types of statements that could be made. He wondered whether delegations might consider amending subparagraph (x) of the Basic Proposal to indicate that these are three separate alternatives, for example by inserting (a), (b) and (c) before each indication.

36. Mr. PAPARO (Italy) suggested changing the expression “representation” for “reproduction” in Article 3(1)(ix), because in Rule 3 only the second term was used.

37. The CHAIR drew the attention of the Conference to Note 3.09 containing explanations for the term “representation”. Generally speaking, the term “representation” was broader than “reproduction” and was intended to cover both the graphic or photographic reproduction of a mark and any other means of representation, for example, descriptions or electronic data files. He added that the terms “representation” and “reproduction” had been carefully chosen after some discussion and it was better not to change them.

38. Mr. ARBLASTER (Australia) said that in a number of places in the rules, both terms were used. There was a slight difference in meaning in the two terms and this was particularly highlighted in Rule 3.

39. Mr. MEJÍA GUEVARA (Honduras) said that he agreed with the explanation provided by the Chair, regarding the relationship between Articles 1(iii) and 3. However, he wished to propose an amendment to Article 1(iii) to read “application means an application for registration, as referred to in Article 3”. In this manner, there would be a logical link between the two provisions.

40. The CHAIR said that the Delegation of Honduras may consider submitting a written proposal on Article 1(iii), to make this connection with Article 3.

41. Mrs. ROAD D’IMPERIO (Uruguay) said that the term “representation”, which was used in Article 3(ix), was consistent not only with the Notes, i.e. the explanation given by the International Bureau, but it was also a term that covered graphic and photographic reproductions of the mark and was consistent with the terms of Article 8 on communications. That was the reason for the change with the TLT which referred to “one or more reproductions of the mark” in Article 3(1)(xii).

42. Mr. BAOLIN (CTA) said that applicants chose sometimes to use their full names and other times not. This resulted in the same applicant having different names. He considered that, to some extent, this might have an impact on the priority of the application and might lead to problems in the future, as well as additional burdens for the office. Representatives could have complaints, as in some cases the same applicants go to different representatives. He considered that more explanations were needed on this point, so that the applicant is obliged to use the same name whenever he applies. Another point that he wished to make regarded the representation of the mark. He said that the Notes explained that the representation could be a written description and this could pose the problem of accuracy. He suggested using the term “graphic representation” to avoid any misunderstanding.

43. Mr. PARKES (FICPI) referred to the intervention made by the Delegation of Italy and recalled that the broader term “representation” was used instead of “reproduction” in Rule 3(6) that dealt with non-visible signs, and it was important that the definition in Article 3 should also cover that point.

44. Mr. HÖPPERGER (WIPO) referred to the intervention by the Representative of the CTA concerning the obligation to provide for a description of the mark and pointed out that the Basic Proposal did not provide for such an obligation. The TLT 1994 had an express prohibition for an office to require the applicant to provide a description of the mark. However, since the Revised TLT had a broader scope, and it also applied to new types of marks (e.g. sound or scent), a possible way to represent those marks was to describe them. Nevertheless, the general rule would remain that trademarks are represented through reproductions and descriptions are not needed. He also noted that Rule 2 concerned the manner of indicating names and addresses and that provision could shed some light on the problem highlighted by the Representative with regard to the indication of names.

45. Mr. MAHINGILA (United Republic of Tanzania) sought a clarification concerning the use of the term “reproduction” in Rule 3(a)(i) to (iii).

46. Mr. BISEREKO (Uganda) expressed concern as to Article 3(1)(c) and (2) concerning fees for a single application. He considered that if there was one application for goods and services in different classes and one single fee to be paid, this would not be beneficial for most offices.

47. Mr. HÖPPERGER (WIPO) clarified that Article 3(1)(c) did not prevent Contracting Parties from adopting a fee structure under which fees could be charged on the basis of the number of classes of goods and services covered in the application. Consequently, if there was a multiple-class application and that application pertained to goods and services in more than one class of the International Classification, the fee structure could foresee that the payment will refer to the number of classes in which the goods can be classified that are in the application.

48. Mrs. EL TINAY (Sudan) referred to the remark made by the Representative of the CTA regarding the situation where one or more persons filed an application. She suggested that in this case, the filing should be made in the name of the applicant and should not have several names. She believed that this was a very good and useful proposal, because in certain cases in Sudan, similar problems were faced, particularly in the case where several persons participated in one company. She asked whether in a situation where a company had several shareholders, every person would file the application separately or the filing would be done in the name of one company or one entity.

49. Ms. SUNKER (South Africa) held the view that paragraphs 3(4) on prohibition of other requirements and 3(5) on evidence did not seem to be harmonized with each other. She suggested to change the wording of paragraph (5) as follows: “Notwithstanding the provisions contained in paragraph (4), any Contracting Party may require that evidence be furnished to the Office in the course of the examination of the application where the Office may reasonably doubt the veracity of any indication or any element contained in the application.”

50. The CHAIR wondered whether the proposal made by the Delegation of South Africa concerned a drafting point which may also appear in other places. He asked the Conference whether this point could be submitted to the Drafting Committee.

51. Mr. ARBLASTER (Australia) referred to the comment made by the Delegation of South Africa and, responding to the Chair, said that this was a question of drafting that should be dealt with in the Drafting Committee. He also indicated that he wanted to better understand the nature of the difficulties raised by the Delegation of Sudan and the Representative of the CTA in relation to the manner of identifying a person. The TLT 1994 was silent on this question and left it to the law of the Contracting Party to also determine the way of identifying a range of shareholders or partners of a company. Referring to the comment made earlier by the Delegation of Uganda in relation to fees, he noted that the expression was clearly in plural. As a member of the TLT 1994, he offered to discuss with any interested delegation issues relating to the interpretation of that Treaty or the negotiating history of the basic proposal.

52. Mr. YACOUBA KAFFA (OAPI) asked the Secretariat to provide further clarification, following the question asked by the honorable Delegate of Uganda and the responses given by the Secretariat. He said that Article 3(2) stated that one and the same application might relate to several goods and/or services. As regards the fees charged for that type of application, he pointed out that the practice followed in offices consisted in users making a request for a number of classes when they were automatically entitled to protection for such a number of classes. Any class in excess thereof should be the subject of payment of an additional fee per additional class. He also requested that the provision in question be read with Article 6: the second paragraph of Article 3 stated “may relate to several goods and/or services” and when reference was made in Article 6 it was said subsequently that “such an application shall result in one and the same registration”. Mr. Yacouba Kaffa observed therefore that it was as if only one registration were allowed whereas, according to the wording of Article 3(2), it appeared that Contracting Parties had the possibility to request a deposit, or perhaps an application, for goods and an application for services. Consequently, it was as if Article 6 was designed to destroy that practice. He said that such a practice already existed in a number of offices, be they parties to the Treaty or not, and he suggested that consideration should be given to that in Article 6. In that regard, he informed the President and Secretariat that OAPI and its Member States proposed putting forward a proposed amendment in writing to the Secretariat. He specified, however, that that was a proposed amendment to Article 6 of course and not to Article 3. Nevertheless, he wanted the Secretariat to confirm in advance whether the interpretation that had been given to Article 3(2) was correct.

53. Mr. BAOLIN (CTA) clarified his previous intervention by saying that the issue of the name of the applicant was actually a real problem in China. For example, the CTA had many representatives and because there were different names in the application, the Office took it that there were different applicants, even where the address was the same, because different companies may function in the same building. He also considered that Article 4 relating to address for service, should refer to the representatives admitted to practice.

54. The CHAIR noted that the discussion on Article 4 would follow later.

55. Ms. SUNKER (South Africa) asked whether delegations could continue to intervene on issues that they considered as being issues of substance, regardless of whether other delegations might view those same issues as being drafting points.

56. The CHAIR said that it was understood that, where a delegation felt that something was substantive in nature, even though on the surface it looked like a drafting point, it could always raise it, and Main Committee I would make a decision, because it was clear that the Drafting Committee could not make decisions on substance.

57. Mr. PARKES (FICPI) cautioned the meeting when making the determination as to whether a question was merely a drafting point. In particular, he referred to the suggestion made by the Delegation of South Africa to insert the words “notwithstanding paragraph (4)” in Article 3(5). He suggested that the meeting pay attention to the fact that this provision corresponded to the TLT 1994. He mentioned that, in his understanding, the prohibition of other requirements that was contained in Article 3, paragraph (4), dealt with possible requirements outside of the material in the application, such as the furnishing of a certificate from the Register of Commerce, an indication that the applicant carried on a particular industrial or commercial activity, etc. Paragraph (5), dealt with the option for an office to require evidence where it may reasonably doubt the veracity of any indication or element contained in the application. The Representative considered that there was a distinction between paragraphs (4) and (5). Paragraph (5) allowed any office to seek evidence if there was something in the application whose veracity was doubtful, whereas paragraph (4) dealt with requirements outside of the application. Therefore, there was no need to link the two paragraphs. He noted that Article 3, paragraphs (7) and (8) were considered to be a very important part of the Treaty in 1994 and they should continue to be so in this Revised Treaty.

58. The CHAIR said that he would await submission of the written proposal by the Delegation of South Africa before discussing this point again.

#### Rule 2: Manner of Indicating Names and Addresses

59. Mr. BISEREKO (Uganda), referred to subparagraph (1)(a)(ii), where the person is a legal entity, and considered that the expression “the official designation of the legal entity” was ambiguous because in the case where a multi-national company has a parent company with many officials, it would be clearer to state the residential address of the first registration.

60. Mr. HÖPPERGER (WIPO) noted that, regarding the indication of names and addresses in the application and in other requests, it was important to highlight that these rules had been adopted more than 10 years ago and were contained in the TLT 1994. Those rules provided that Contracting Parties should be given the freedom to require certain specifications from applicants and they should also know the form of indication that they have to make. Relating to the issue of several applicants and several names in the application, it was understood that the TLT provided for an application to be filed by co-holders, because it is conceivable that an application may be owned by more than one person. He added that it was up to the applicant to decide the name in which the application should be filed and in the case of complicated corporate structures, it should be decided whether the registration should stand in the name of the parent company or of the local holding company or both. Thus, it was clear that under the TLT 1994, there could be several applicants who would then become co-holders, and Rule 2(b) provides certain solutions at the technical level and some leeway.

Rule 3: Details Concerning the Application

61. The CHAIR opened the floor for comments on this provision and requested the International Bureau to clarify a question concerning the Spanish version of Rule 3.

62. Mr. ESPINOSA (WIPO) referring to the Spanish version of document TLT/R/DC/4, confirmed that the term “representaciones” (“representations”) appeared correctly in Rule 3, paragraph 6, relating to non-visible marks, and that that expression differed from the term “reproduction” which was used in other parts of that Rule.

63. The CHAIR noted that there were no further comments on this provision.

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64. The CHAIR informed Main Committee I that the International Bureau wished to make two announcements of a procedural nature, and that one delegation had also asked for the floor in order to make an announcement.

65. Mr. HÖPPERGER (WIPO) informed Main Committee I that, in order to avoid confusion and misunderstandings, and to provide a sound basis for the production of formal proposals, the International Bureau proposed the following procedure: delegations wishing to make proposals were kindly requested to submit their proposals in writing to either the Chair or the International Bureau. The proposals should clearly indicate:

- a) the name of the delegation making the proposal;
- b) the name of the particular delegate making the proposal; and
- c) the time and date when the proposal was submitted.

66. He drew the attention of Main Committee I to the fact that, from the rostrum, it was difficult to identify the name plates. He therefore begged the indulgence of delegates in case a request for the floor was not noticed immediately. To avoid misunderstandings and delays, he invited particularly delegations sitting further back in the room to contact one of the ushers in the room and keep up their name plate.

67. The CHAIR announced that there would be a coffee break of half an hour at 4.30 pm which would offer groups the opportunity to meet. He informed Main Committee I of his intention to adjourn the meeting at 6 pm and to continue work the following morning at 10 a.m.



Article 4: Representation: Address for ServiceRule 4: Details Concerning Representation and Address for Service

68. The CHAIR turned to Article 4 of the Basic Proposal.

69. Mr. HÖPPERGER (WIPO) informed Main Committee I that, in the English text of Article 4(2)(b), the expression “an applicant, holder of other interested person” in the third line of subparagraph (b) should read ‘an applicant, holder or other interested person’.

70. The CHAIR opened discussion on Article 4(1) and (2).

71. Mrs. HOU (China) proposed that, in Article 4(1), the expression “[a]ny Contracting Party may require that a representative appointed for the purposes of any procedure before the Office” be supplemented by an additional clarification that the representative had to acquire a “professional practice license”. She believed that the representative would have to be someone who was professionally permitted to practice, and that a more precise definition of the qualifications required by a representative would clarify Article 4(1) without altering its original meaning. If the representative did not acquire the qualifications or credentials required, he or she could not properly protect the interests of the appointing person. It was imperative that the representative have a legal background and a good understanding of the legal proceedings at issue. She recalled that Article 4(1) of the TLT 1994 contained an explicit reference to the requirement of being “admitted to practice before the Office”.

72. The CHAIR confirmed that the text of Article 4(1) of the TLT 1994 contained the words “admitted to practice before the Office”. He held the view that, in the new Article 4(1) contained in the Basic Proposal, this requirement was expressed in an indirect way. He referred to the requirement that a representative “have the right, under the applicable law, to practice before the Office” in Article 4(1)(a)(i) which he understood to capture not only jurisdictions in which the right to practice before the Office flowed from a formal admittance procedure and jurisdictions applying other practices.

73. Mr. HÖPPERGER (WIPO) referred to the preparatory work on Article 4(1) of the Basic Proposal. He clarified that the reason for the departure from the text of Article 4(1) of the TLT laid in the fact that not all countries had a system requiring representatives to be admitted to practice. While a system in which agents had to pass a professional qualification exam existed in many countries, others allowed individuals to practice before the Office without being technically-speaking “admitted”. The somehow broader wording in Article 4(1) of the Basic Proposal had been chosen to cover countries with and without admission exams alike. He suggested to make additions to the Explanatory Notes on Article 4(1) of the Basic Proposal in order to clarify the matter.

74. The CHAIR noted that the Conference was not working on the Explanatory Notes. The International Bureau would be able to change the Notes *ex officio*. He invited the Delegation of China to reflect on whether or not to submit a formal proposal which would then be considered by Main Committee I.

75. Mr. WARDLE (New Zealand) informed that, in New Zealand, trademark agents were not regulated. There was no requirement to pass any special qualifications. He added that most individuals practicing before the Office of New Zealand were registered patent attorneys whose profession was regulated, or practicing lawyers. The Commissioner of Trademarks had the right to refuse to recognize a particular person as a representative. He felt that the wording of Article 4(1)(a) of the Basic Proposal suited the New Zealand situation well.

76. Mr. GHORBANI (Islamic Republic of Iran) agreed that the International Bureau could make additions to the Explanatory Notes. When finally approving and adopting the Treaty and the Regulations, however, these Notes should also be taken into account. They should be reviewed by Member States in order to establish a common understanding.

77. Mrs. ADÁN (Argentina) said that by way of example and in order to clarify the last point, she wished to refer to the experience of Argentina. She emphasized that in Argentina industrial property agents existed who took an examination at the National Institute of Industrial Property, but that the possibility existed for an individual to manage his or her own proceedings. In other words, both systems co-existed. Proceedings could be instituted through an agent or individually. She said that she had made that comment simply in order to consider the scope that should be examined in the second proposal.

78. Mrs. EL TINAY (Sudan) informed Main Committee I that Article 15 of the Trademark Act of Sudan reads as follows:

“Article 15. (Qualification of an Agent)

- (1) The following are eligible to act as trademark Agents:
  - (a) Sudanese advocates practicing in Sudan;
  - (b) Sudanese chartered and certified accountants, practicing in Sudan;
  - (c) With the written consent of the Minister which may be withdrawn at any time and subject to such conditions as he may think fit:
    - (i) University or Higher Institute Sudanese graduates, who took Commercial law;
    - (ii) Sudanese who have had at least five years’ experience in a public or private trademark office;
    - (iii) Other persons whom the Minister may think fit.
- (2) The Registrar shall not be bound to recognize as such agent any person who has been convicted by a criminal court or struck off the roll of advocates or has been restrained from acting as a chartered or a certified accountant.”

79. Mr. OMOROV (Kyrgyzstan) sought clarification on Article 4(2)(a) and (b). He explained that, in Kyrgyzstan, attorneys had to be citizens or residents of the country. He wondered whether Article 4(2)(b) had to be understood to include also other individuals who were neither citizens nor residents but provided an address for service.

80. Mr. HÖPPERGER (WIPO) clarified that the reference to “the right, under the applicable law, to practice before the Office” in Article 4(1)(a)(i) could allow the inclusion of a requirement as to nationality. Article 4(2)(b) was a subsidiary provision concerning situations in which representation was not required. If the Office of a Contracting Party did not require representation, it may still require that the person submitting a request have an address for service on the territory of the Contracting Party concerned. To facilitate

communications, such as the acknowledgement of receipts, offices usually preferred to correspond with applicants having an address for service on the territory of the Contracting Party concerned.

81. Mr. OMOROV (Kyrgyzstan) wondered about the correctness of his understanding that, in exceptional cases, a national from another country could act before the Office on the condition that he provided an address for service on the territory of Kyrgyzstan.

82. The CHAIR confirmed that this understanding was correct.

83. Mr. FICSOR (Hungary) felt that the Explanatory Note 4.02 on Article 4(1)(a) had to be amended in order to clarify whether the requirements of Article 4(1)(a)(i) relating to an appointed representative and the requirement of Article 4(2)(a)(ii) relating to an address on the territory prescribed by a Contracting Party applied cumulatively or alternatively.

84. Mr. PARKES (FICPI) pointed out that the discussion on the admission to practice before the Office could be traced back to early meetings of the SCT. He added that, in some countries, even when there was a list of admitted representatives, individual lawyers also had the right to represent clients before the Office. He felt that the issue in question was whether a representative was admitted to practice or whether he or she had the right to practice. He held the view that this distinction was one of the reasons for the broader wording in Article 4(1)(a). With regard to the issue raised by the Delegation of Hungary, he expressed the view that the wording in Article 4(1)(a)(ii) probably was intended to cover the situation in the European Union where there were individual Member States but nevertheless some freedom to provide services within the European Union. He felt that the possibility of prescribing something other than the territory of a particular country may be important in this situation.

85. Mr. HÖPPERGER (WIPO) clarified that the Explanatory Note 4.02 was intended to shed light on the question of the right to practice before the Office. Contracting Parties were allowed to require that the appointed representative be a person entitled to practice. This implied that a requirement of nationality would also be covered. He explained that, as there were countries applying less strict requirements, the second sentence of Note 4.02 sought to clarify that Contracting Parties were also free not to require an admission to practice. While the first sentence of Note 4.02 outlined a maximum requirement, the second sentence thus was intended to leave room for countries following a more liberal approach.

86. The CHAIR felt that, after these explanations, the issue had been dealt with in some detail. He opened discussion on Article 4(3) to (6) and Rule 4.

87. Mr. BISEREKO (Uganda) indicated that the reference to Article 8 made in Article 4(5) may raise problems for certain countries.

88. The CHAIR proposed to deal with the concern expressed by the Delegation of Uganda in the context of the discussion on Article 8 which would permit to consider the issue on the basis of a better understanding of the meaning of Article 8.

## Article 5: Filing Date

### Rule 5: Details Concerning the Filing Date

89. The CHAIR underlined the importance of obtaining a filing date in the context of trademark applications. He opened discussion on Article 5.

90. Mr. OTIENO-ODEK (Kenya) expressed the view that the relationship between subparagraphs (a) and (b) of Article 5(1) was not clear. While the use of the word “shall” in subparagraph (a) pointed towards the establishment of mandatory requirements, use of the word “may” in subparagraph (b) introduced a discretionary element. He felt that, because of this structure, there was some ambiguity as to what should actually be sufficient documentation for the granting of a filing date. Given the importance of the filing date, he feared that this may give rise to problems between the Office, the applicant and other interested parties.

91. Mr. ZHAROV (Ukraine) drew the attention of Main Committee I to a difference in wording between Article 5(1)(iv) and Article 3(1)(ix). Whereas the term “representation” was used in the latter provision, Article 5(1)(iv) referred to “reproduction”. He was of the opinion that the term “representation” was broader than the term “reproduction”, and that it was preferable to use the broader term “representation” also in Article 5.

92. Mr. KIANI (Islamic Republic of Iran) suggested that the word “implicit” in Article 5(1)(a)(i) be deleted. He gave the example of a situation in which the Office did not receive all necessary indications but those set out in Article 5(1)(a)(i) and (iii). If the Office, in such a situation, called the applicant and obtained additional information on the telephone, it would be very difficult to decide whether sufficient indications had been given and to record the information received.

93. Mr. HÖPPERGER (WIPO) agreed with the Delegation of Kenya that Article 5 concerning the filing date was an essential element of the text. The recording of a filing date for an application was of particular importance when it came to determining rights to a given trademark. He said that, ideally, there would be only one standard for granting a filing date in all Member States of WIPO. The approach taken in Article 5(1) was identical to the approach reflected in Article 5(1) of the TLT, namely, that there was a list of six indications, and that an office receiving all those indications would grant a filing date. This approach ensured that an applicant providing all six indications would obtain a filing date in all Contracting Parties to the TLT. The discussion in the context of the TLT, however, had shown that there were countries which followed a more liberal approach and required fewer indications. In order to acknowledge also these more liberal approaches, Article 5(1)(b) had been introduced. The result was a compromise between certainty as to the applicable requirements and freedom to adopt more liberal approaches. Accordingly, there was a maximum standard to be found in the “shall” provision of Article 5(1)(a) followed by a clarification in the “may” provision of Article 5(1)(b) that less may be required. This combination of maximum requirements and freedom to demand less could be found more often throughout the Basic Proposal.

94. He turned to the issue raised by the Ukraine and clarified that use of the term “reproduction” in Article 5(1)(a)(iv) was unintentional. He said that it would be preferable to refer to “representation” because the Basic Proposal was intended to cover also types of

marks that could not be represented through graphic reproduction. He endorsed the view expressed by the Delegation of the Ukraine that the broader term “representation” covered “reproductions”. Article 5(1)(a)(iv) should already have been amended accordingly when preparing the Basic Proposal.

95. With regard to the issue raised by the Delegation of the Islamic Republic of Iran, he explained that the background to the use of the word “implicit” in Article 5(1) of the Basic Proposal, which corresponded to Article 5(1) of the TLT, was the issue of communications transmitted by facsimile. If an office received a facsimile communication which clearly showed the trademark, specified goods and services and provided the necessary contact details, it would appear inappropriate to additionally require an explicit statement to the effect that the registration of a mark was sought. This intention could easily be inferred from the indications given in the communication. The situation was comparable to an application which was not filed on the prescribed form, in which case it would also seem unjustified not to grant a filing date if all necessary indications were given.

96. The CHAIR wondered whether the issue of “reproduction” and “representation” could be dealt with by the Drafting Committee without requiring a formal proposal since the International Bureau admitted that the term “reproduction” in Article 5(1)(a)(iv) should already have been replaced with “representation” in the course of preparing the texts of the Basic Proposal.

97. Mr. ARBLASTER (Australia) expressed the view that the Drafting Committee could consider the use of the term “reproduction” in Article 5(1)(a)(iv) and elsewhere and report back to Main Committee I.

98. The CHAIR concluded that the Drafting Committee would be asked to replace the term “reproduction” in Article 5(1)(a)(iv) with the term “representation”. He recalled that the provision would finally have to be adopted by Main Committee I.

99. Mr. OTIENO-ODEK (Kenya) wondered whether the reference to “the time of becoming party to this Treaty” in Article 5(2)(b) implied that an element of reservation had to be introduced when adhering to the Revised TLT in order to maintain a national requirement concerning the payment of fees, as reflected in Article 5(2)(a).

100. Mr. HÖPPERGER (WIPO) clarified that Article 5(2)(b) would apply automatically, and that no reservation had to be made when adhering to the Revised TLT.

101. Mr. ARBLASTER (Australia) expressed the view that Article 5(2)(b) should be understood to allow the continuation of the practice of requiring the payment of fees if this requirement existed at the time of adherence to the Treaty. It was his understanding that no reservation was needed.

102. The CHAIR opened discussion on Rule 5. In the absence of any request for the floor, he turned to Article 6.

Article 6: Single Registration of Goods and/or Services in Several Classes

103. The CHAIR opened discussion on Article 6.

104. Mr. YACOUBA KAFFA (OAPI) said that in its first statement given that morning, following the question raised by the Delegate of Uganda and the response given by the Secretariat, his Delegation had made a statement during which it had been specified that they would submit a proposed amendment. That amendment had indeed been submitted. He therefore considered that all the requirements had been satisfied apart from one, given that they had omitted to mention the time and the date of submission. The Delegate therefore wished the proposed amendment in question to be submitted to the Plenary.

105. The International Bureau formally acknowledged receipt of the proposal and added that the proposal would be formatted, translated, reproduced and made available to the Committee as soon as possible.

106. Mr. HÖPPERGER (WIPO) confirmed that the proposal submitted by OAPI would be distributed.

107. The CHAIR announced that the further consideration of Article 6 would be postponed until the proposal by OAPI would finally have been made available and could be considered by the Committee.

[Suspension]

Article 7: Division of Application and Registration

108. The CHAIR opened discussion on Article 7.

109. Mr. SIMONOV (Russian Federation) sought clarification on the Explanatory Note 7.01. He wondered about the reference, in the Note, to typical situations in which an applicant was likely to request the division of an application or registration.

110. Mr. HÖPPERGER (WIPO) explained that the sentence of the Explanatory Note 7.01 starting with “[t]ypically, the applicant is interested in dividing...” aimed to clarify the background to provisions for the division of an application or registration. In particular in the context of multiple-class registration systems, objections raised by an office with regard to an application concerning goods and services in several classes might concern only some of the classes requested. Similarly, under a system providing for opposition proceedings, a third party may challenge an application with regard to some goods and services only. In such a situation, it was advantageous for the applicant to request the division of the application and proceed further with regard to unaffected goods and services. The applicant could receive a registered right for the undisputed part of the application while remaining at the opposition stage with regard to the part of the application that was problematic.

111. Mr. KHAN (Pakistan) agreed that, in case of a multiple-class application, where the applicant may be prevented from registration because of an opposition or objection concerning only some classes, he should have the right to divide the application. As to Article 7(2) concerning the division of a registration, however, the Delegate felt that it was not clear whether the single registration rule of Article 6 required that, ultimately, there should be only one registration. He indicated that it may be difficult to reconcile Article 6 with the notion of the division of a registration. In practice, it was not clear what would happen with the application numbers and how the division of the registration could be justified. He held the view that, also after a division, it would still have to be the same registration. If, for instance, an opposition for two or three classes was finally decided in favor of the applicant, then these classes should be added to the registration certificate for those classes of the initial application which had not given rise to opposition proceedings. Otherwise, there was a risk of confusion.

112. Mr. HÖPPERGER (WIPO) clarified that Article 7(2) complemented Article 7(1). He explained that there were countries which did not examine an application as to relative grounds for refusal. Similarly, there were countries which did not have opposition procedures but dealt with conflicting rights in the course of post-registration invalidation procedures. Under these systems, there was no longer an application that could be divided at the time of raising an objection with regard to certain goods or services because the mark had already been registered. The holders of conflicting rights, technically speaking, sought the invalidation of a registration. Nevertheless, the same reasoning applied. Rather than jeopardizing an entire registration because of invalidation proceedings concerning only certain classes, it seemed multiple-class more appropriate to allow the division of the registration. Whereas Article 7(1) concerned an application at the application stage, and pre-registration opposition proceedings or objections raised by an examining office on relative grounds, Article 7(2) dealt with the parallel situation in countries which first registered the mark and allowed for the consideration of conflicting rights afterwards. The Basic Proposal thus did not provide for the division of a registration to regulate situations falling outside the general framework of application procedures. It rather reflected the approach taken by countries in which the issue of conflicting rights was dealt with at the post-registration stage.

113. Mr. KHAN (Pakistan) held the view that, under the laws of most countries, rectification proceedings offered the possibility to cancel only a specific part of the affected registration rather than jeopardizing the entire registration. Similarly, specific goods or services that were not under use could be removed from the register after a certain period of time. He believed that the issue of the division of registrations required further consideration by Main Committee I. In his view, the word “division” was likely to create confusion, as the registration would be the same and the registrar would remove classes which conflicted with third party rights from the same registration certificate.

#### Article 8: Communications

##### Rule 6: Details Concerning Communications

114. The CHAIR opened discussion on Article 8. He recalled that the Delegation of Uganda had already expressed a concern with regard to the reference to Article 8 made in Article 4(5).

115. Mr. BISEREKO (Uganda) said that he had dropped his concern.

116. Mr. ZHAROV (Ukraine) drew the attention of Main Committee I to the three subparagraphs (a), (b) and (c) of Article 8(2). He pointed out that, whereas subparagraphs (a) and (b) referred to Contracting Parties, subparagraph (c) made reference to the Office. He felt that this was an inconsistent approach.

117. Mr. ARBLASTER (Australia) pointed out that several references to either Contracting Parties or the Office were to be found throughout the Basic Proposal. In the case of Article 8(2), these references were made in the same paragraph. As to the reason for this combination, he recalled that Contracting Parties may enact legislation, whereas offices may sometimes be able to establish a requirement by regulation or some other legislative instrument, or shape requirements, for instance, as to admissible languages, through their practice. He believed that the combination of references in Article 8(2) was appropriate but was not opposed to checking the language.

118. The CHAIR said that the Committee could further reflect on the issue raised by the Delegation of the Ukraine. He pointed out that a formal proposal would be necessary in case the scrutiny of the language showed a need for changes.

119. Mrs. FARAH (Morocco) noted that in Article 1, the Office was defined as “the agency entrusted by a Contracting Party with the registration of marks”. Therefore if the term “Office” or “Contracting Party” were used, that would come to the same.

120. Mr. ZHAROV (Ukraine) pointed out that a distinction had to be made between the Contracting Party and the Office. It was the Contracting Party that instructed the Office but not *vice versa*. He indicated that he might submit a formal proposal to draw attention to this point.

121. The CHAIR pointed out that Article 1 provided definitions of the term “Contracting Party” on the one hand, and the term “Office” on the other hand.

122. Mr. DANILIUC (Republic of Moldova) expressed support for the intervention made by the Delegation of the Ukraine. He emphasized that there was a need for a harmonized wording in Article 8(2).

123. Mr. SISSOKO (Mali) said that he had noticed a difference between paragraphs (2)(b) and (2)(c) of Article 8 and that he would rather have opted for the provisions of paragraph 2(b). He asked, however, whether it was not possible to have the communication translated by an officer or consulate authority rather than to request the translation be done by a sworn translator. He considered that things should be simplified and only the first provision contained in paragraph (2)(b) would have been worth retaining. He believed that paragraph (2)(c) only complicated matters.

124. The CHAIR said that the issue would be dealt with once Main Committee I had received the proposal from the Delegation of the Ukraine.

125. Mrs. MTSHALI (South Africa) said that South Africa wanted to reserve the right to make an intervention on Article 8 at a later time. The Delegation first had to conclude internal consultations.



126. The CHAIR noted the announcement by the Delegation of South Africa. He drew the attention of Main Committee I to Rule 6 and explained that the Rule distinguished between paper filings, communications filed by electronic means of transmittal and electronic filing. He recalled the particular effort made in the SCT to draft Article 8 and Rule 6 so as to cover not only traditional forms of communication, such as paper communications, but also new forms, such as electronic filing.

127. Mr. GHORBANI (Islamic Republic of Iran) referred to Rule 6(6) concerning the application of authentication systems in the case of the filing of communications in electronic form. He held the view that a Contracting Party which permitted the filing of communications in electronic form should not decide individually on the authentication system to be applied. He suggested that the Diplomatic Conference mutually agree on one system and indicated that the Delegation of the Islamic Republic of Iran would submit a proposal concerning Rule 6.

128. Mr. KHAN (Pakistan) pointed out that communications in electronic form could be transmitted from persons domiciled, residing and living in foreign countries. He felt that, in such a case, the indication of an address for service should be mandatory, at least when the Office did not require the appointment of a representative. He was of the opinion that Rule 6 needed further consideration by the Committee and announced he would submit a proposal.

129. Mr. HÖPPERGER (WIPO) recalled that the Basic Proposal offered Contracting Parties maximum flexibility with regard to the requirement of representation and the indication of an address for service. This flexibility could also be used to deal with future changes in the communication system.

130. The CHAIR adjourned the meeting.

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131. The CHAIR proposed to continue the discussion on Article 8 and Rule 6, and opened the floor for comments.

132. Mr. BOLDVIK (Norway) said that he wanted to address a question regarding Rule 6, paragraph (5), which was of particular relevance to countries that provided for a communication on paper to be filed by electronic means of transmittal, and that required the original document to be forwarded to the Office at a later stage. Rule 6(5) stated that where the applicant had filed a communication on paper by electronic means of transmittal, for example, by facsimile, the Office could require that the applicant file the original of that communication within a time limit of at least one month from the date that earlier transmission was received by the Office. He noted that, from the wording of the provision, it

seemed that it was up to the Office to decide how the provision should be read, and whether the time limit should start to run automatically from the receipt of the communication filed by electronic means of transmittal or not.

133. He explained that previously, Norway had a similar provision in its legislation, with the time limit running automatically from the date of filing of the communication by electronic means of transmittal. However, very often the applicant was not aware of the time limit or overlooked it. The applicant would also forget to send the accompanying letter with reference to the earlier transmission, thus the Office in Norway treated the new communication as a new application and not as a duplicate. This caused problems both for the applicant and for the Office.

134. As a result of these problems, Norway changed its practice. Its Office still requires that the application should be submitted in original, but there was no longer an automatic time limit running from the date of the applicant's communication on paper filed by electronic means of transmittal. In practice, if at the time of examining the application, the Office found that it needed the original and that the applicant had not yet submitted it to the Office, the latter would notify the applicant in writing and would request the original. In this communication, the Office would also mention if there were any other irregularities with the application or obstacles preventing registration. This communication would have a time limit of at least one month. It was considered that this practice made the system more transparent than before and the applicant was made fully aware of the time limit that was running. Therefore, the practice was also more user-friendly.

135. Against this background, he suggested to consider whether an amendment along these lines would be adequate and relevant to be discussed further. In such a case, the Delegation of Norway would submit a written proposal. The amendment would mean that the time limit mentioned in Rule 6(5)(ii) should not start running from the date when the office received a communication from the applicant filed by electronic means, but rather from the later date when the Office required that the communication be submitted with a signature in original. Therefore, the wording in Rule 6(5)(ii) should be changed from "received the communication by electronic means of transmittal" with "requested the original".

136. Mr. CARLSON (Sweden) supported the substance of the proposal made by the Delegation of Norway, as it would help the Office to make a more clear and transparent decision. However, he wondered whether Article 21 would in practice achieve the same goal.

137. Ms. BERESFORD (United States of America) said that, in her view, Rule 6(5)(ii) as currently drafted, did not seem to be incompatible with the practice observed in Norway. She noted that the provision read that the Contracting Party "may" require the original of a communication on paper filed by electronic means of transmittal and then give the applicant the minimum time limit of one month to provide such an original. It seemed that, according to the practice observed in Norway, the time limit was more generous and thus it seemed that the practice was not inconsistent with the current text of the Rule.

138. Ms. VENIŠNIK (Slovenia) said that the proposal by the Delegation of Norway appeared to be very interesting not only because it seemed to be very user-friendly but also as it might be of great interest for offices given that it did not burden their work. She specified, however, that she needed further information on the matter. She was perfectly aware that she

could request this information bilaterally but considered that it might also be of interest for other delegations to know the answer to the question of whether the notification to the applicant was always made as an obligation or only if the office considered it necessary to have the original.

139. Mr. BOLDVIK (Norway) clarified that he did not consider that the current practice in Norway was inconsistent with Rule 6(5)(ii) as currently drafted. However, he thought that his proposed amendment would make the rule more transparent for the user and give him clear information about the time limit that was running, by indicating the starting point from an active communication by the office.

140. The CHAIR suggested that those delegations that had expressed themselves on this issue could consult bilaterally with the Delegation of Norway to decide whether a written proposal should be submitted on this matter for its further consideration.

141. Mr. YACOUBA KAFFA (OAPI) said that he had followed with great interest the explanations and proposal made by the honorable Delegate of Norway. He wished, however, to specify that in the form in which Rule 5 was currently drafted, he was of the opinion that it was sufficiently transparent and allowed the different communications to be traced without difficulty. He specified that the practice at OAPI was exactly the same as the practice in Norway before the improvement of their system and the rule could be left as it stood, and at the request of the different offices, so as possibly to improve their practices and grant additional deadlines. In conclusion, he said that his Delegation considered that currently it was not, and would not be, very useful to overturn the rule as it was currently drafted.

142. Ms. SUNKER (South Africa) referred to Article 8 “Means of Transmittal and Form of Communications” and expressed concern that the wording of the provision, which allowed any Contracting Party to choose the means of transmittal of communications and whether it accepted communications on paper, in electronic form or any other form of communication, would in fact allow a Contracting Party to choose electronic filing only, with the exclusion of other forms of communication. She noted that developing countries were not always in a position to make electronic filings and this provision could cause problems to those countries. She therefore suggested changing the wording of the provision as “any Contracting Party may accept communications in electronic form or any other form of communications. However, communications on paper must always be accepted by Member States”.

143. Mr. OUBEIDILLAH (Comoros) said that he subscribed entirely to the recommendation proposed by South Africa. He said that his country did not have the necessary equipment and technology for applications to be filed entirely in electronic form. For that reason, he considered it advisable and even fundamental for the Comoros to have traditional means, i.e. paper or any other means used previously, always accepted so that applications might continue to be filed in the country.

144. Mrs. ROAD D’IMPERIO (Uruguay) said that with reference to the proposal put forward by the Delegation of Norway regarding Rule 6(5), her Delegation endorsed the proposal as it was drafted. In her opinion, the starting point fixed of at least one month after the communication had been received by the Office, constituted a sure and transparent point of departure for both parties, be they users or the Office. She added that a period of one month was more than reasonable.

145. Mr. GHORBANI (Islamic Republic of Iran) supported the views expressed by the Delegation of South Africa, and added that he had the same concern in relation to Rule 6(6) because of the digital gap, which affected in particular developing countries and LDCs. He believed that the provisions in question would continue to intensify this gap. They would probably create a division between developed countries, on the one hand and developing countries and LDCs on the other. Therefore, he believed that this issue should be dealt with in the Treaty in a manner that solves the problem.

146. Mr. YACOUBA KAFFA (OAPI) said that it had appeared so obvious to him that communications or also applications on paper might also be accepted that he had not taken the trouble to specify that. Consequently, he was of the opinion that the suggestion made by the honorable Delegate of South Africa was quite fortunate, if only for the reasons which the African Group had expressed in its general statement made by Nigeria. He said that he subscribed fully to the proposal made by South Africa but that he hoped simply to have available a written proposal within a short time.

147. Ms. BERESFORD (United States of America) said that she understood the provision allowing offices to choose the means of communication to be an empowering provision, because each office could make that determination. She noted that usually, applicants did not file applications by themselves but through a representative who, in most cases, had access to the Internet. The experience of the United States Patent and Trademark Office (USPTO), which accepted both paper and electronic filing, was that applications were filed electronically from all over the world, including from countries in Africa and South America. She declared that the USPTO had no plans to eliminate the ability to receive paper filings in the near future, but that it could do it gradually. Her concern was to avoid tying the offices in the future, under this particular Treaty, and not allowing them to choose electronic filing.

148. Mrs. EL TINAY (Sudan) supported the proposal put forward by the Delegation of South Africa and the views expressed by the Delegation of the Islamic Republic of Iran. She said that paper filings should be kept, even where more modern technological means were accepted. This was so because certain countries did not have such means at their disposal, and particularly developing countries.

149. Ms. SUNKER (South Africa) thanked other delegations that had intervened on this matter. She conceded that, in the multilateral process of establishing a treaty, it was necessary to ensure that it respond to technological developments. However, there seemed to be a difficulty if an international instrument were to legislate the technological divide. She considered that an agreement allowing a Member State to actually refuse an application simply because it was not in electronic form would be the source of problems. Therefore, she believed that the Treaty should provide legal security for those countries that were not at a level of development that would allow them to file by electronic means.

150. The CHAIR noted that there were perhaps three possibilities to proceed in relation to Article 8(1): the first possibility would be to keep the *status quo* of the TLT 1994, the second would be to keep the provision in Article 8(1) of the Basic Proposal and the third possibility would be not to have the provision at all. Under the third option, the result would be the same, since as long as a country is not bound by an international commitment it is free to choose how it wishes to organize the national Office.

151. Mr. ARBLASTER (Australia) said that it was important to define the intent of the provision and then look at the best way to achieve it. He recalled that Article 8(1) had been the subject of extensive debate in the SCT –particularly from the tenth to the twelfth sessions– as shown in the proceedings for those sessions, and the Committee came to the conclusion that this provision was the right one. He supported the views expressed by the Delegation of the United States of America to the effect that, in the vast majority of jurisdictions, an address for service of a representative in the country of application was required. It seemed clear that, in such a case, the local representative would have access to the range of resources required by the Office in order to be effective.

152. Mrs KADIR (Trinidad and Tobago) endorsed the recommendation made by the Delegation of South Africa. She held that, even where some developing countries could be in a position to accept electronic filing, they would incur additional costs to put in place the administrative infrastructure needed to implement such systems, as well as to enact the corresponding legislation. While she agreed that systems must respond to technological developments, it was important to remember the peculiar problems that developing countries faced. She encouraged the Delegation of South Africa to submit a written proposal.

153. Ms. KANDA (Togo) congratulated the Chair of Main Committee I, and expressed support for the proposal made by the Delegation of South Africa concerning Article 8(1) and all the reasons put forward by that Delegation and the delegations that had supported it.

154. Mr. BISEREKO (Uganda) supported the proposal made by the Delegation of South Africa on the ground that it gave the right flexibility for all parties concerned. On the issue of the local agent representing users, he noted that the costs involved would be affected by the legal framework of the country in which the user wanted to file an application.

155. Mrs. SÁNCHEZ TORRES (Cuba) said that her Delegation supported the proposal by South Africa and considered that, in terms of its wording, the Spanish version implicitly excluded paper communication, since it depended on the acceptance or otherwise of the national Office. She added that in that case the possibility was excluded for applicants, who did not have the necessary means of communication, to be able to file applications on paper, if the national Office did not accept that means of communication. She therefore considered that paper communication should be included and also the filing of applications using other means of communication should be considered.

156. Mr. GHORBANI (Islamic Republic of Iran) said that, as pointed out by the Delegation of Australia, this issue had been discussed at the SCT. However, very few developing countries participated in the relevant sessions of the Committee. In the report of the thirteenth session of the SCT, the Delegation of the Islamic Republic of Iran expressly reserved its rights to raise this matter at the Diplomatic Conference. Several other developing countries supported this position.

157. Mrs. MENJIVAR CORTÉS (El Salvador) said that, as had been noted by previous delegations, the SCT had discussed that Article widely. She added that the Government of El Salvador, together with the Registration Office and the relevant sector of trademarks lawyers, had reached the conclusion that the Article contained appropriate flexibility and gave the State the power to maintain both systems, i.e. to receive communications on paper or electronically. Nevertheless, she said that in the case of El Salvador, although the Office had

the capacity to accept electronic communications, suggestions and information were received from the private sector of lawyers that not all such parties were in a position to file electronic communications, and so her Delegation considered that the Article should be left open and communication allowed in both directions.

158. Mr. CARLSON (Sweden) said that although he understood the concerns expressed, amongst others, by the Delegation of South Africa, he considered that offices could use the fee mechanism as an incentive to use electronic filing. For example, Offices could establish a different or higher fee for paper filings.

159. Mrs. ISSAHAGUE (Ghana) supported the proposal made by the Delegation of South Africa, since it provided developing countries with flexibility to accept paper-based communications. She recalled that not every country had access to the Internet and declared that she would welcome a written proposal by South Africa on this matter.

160. Mr. PIAGET (Switzerland), emphasizing part of the statement made by the Delegate of Australia, added that the context of the Diplomatic Conference was unquestionably different from that of the Standing Committee, but that nevertheless he wished to recall, as Australia had done, the very long, complete and often tedious discussions that had taken place in the Standing Committee. For that reason, his Delegation did not consider it timely to revisit those subjects and to undertake the same discussions in the current forum. He said that up to SCT/10 a choice of three alternatives had been discussed and that alternative C had finally been selected. He specified that that alternative appeared in the Basic Proposal and that during SCT/10 there had been a consensus to choose that alternative as a good compromise. He said that if he were not mistaken, very many delegations had endorsed that alternative and that, as was again noted in the report, those delegations included several developing countries, each of which was aware that the alternative was a compromise. In conclusion, he recalled and again emphasized the fact that Article 8(1) of course gave the choice to Contracting Parties of selecting the form which they intended to impose on their national Offices.

161. Mr. NDINGA (Congo) said that, in relation to Article 8(1), he advocated the promotion of the accession of a larger number of Parties to the Revised TLT. He noted that on the one hand very few States had acceded to the current TLT and that, on the other, the fact that the possibility was given to exclude developing countries by limiting paper filings in the Revised Treaty also amounted to limiting the effectiveness of the Treaty. For that reason, his Delegation wished the two possibilities, i.e. electronic and paper filing, to be taken into account in the Revised Treaty in order to guarantee the maximum number of accession countries thereto. In conclusion, he said that his Delegation consequently supported the statement made by South Africa.

162. Mr. SISSOKO (Mali) said that he also thought that the possibility must be provided to make paper or electronic filings. In that regard, he endorsed what had been said by the Delegate of South Africa and by the Representative of OAPI.

163. Mrs. POWER (Canada) said that the Canadian Delegation was very interested in Article 8. The Canadian Trademark Office, like many others, accepted both electronic and paper communications. Although users in Canada might continue to use paper in the future, she wished to support the text of Article 8(1) of the Basic Proposal. She supported the views

expressed by the Delegations of Australia and the United States of America that the Committee should work towards creating a forward-looking treaty that allowed enough flexibility for offices and for users.

164. Mr. MAHINGILA (United Republic of Tanzania) expressed support for the proposal made by the Delegation of South Africa.

165. Mrs. ROAD D'IMPERIO (Uruguay) said that her Delegation supported the statement by the Delegation of El Salvador, and insisted that the filings made by nationals abroad and those made by nationals of other countries in the national sphere should be taken into account. That was the primary reason for harmonizing the law and the necessary requirements for filing applications.

166. Mr. AYALOGU (Nigeria) supported the views expressed by the Delegation of South Africa. He noted that while every country would like to use electronic filing in the sense that it was easier, there was no doubt that there was still a very wide digital divide between developed and developing countries. He also noted that it was important to have an all-inclusive treaty that allowed flexibility and this was the sense of the proposal made by the Delegation of South Africa.

167. Mr. WARDLE (New Zealand) said that he understood the provision in Article 8(1) as allowing a Contracting Party to choose the form and means of communication. In other words, it provided flexibility for offices in respect of how they received trademark applications and how they used new technologies to reduce business compliance costs, to keep the cost of applications down and improve office administration efficiency. He noted that his Delegation would consider entering a reservation in respect of any amendment that would effectively lock a Contracting Party into an outdated technology such as paper. He recalled that the importance of paragraph (1) was to give offices the flexibility to embrace new technologies and therefore, it should not be restricted to require officers to continue using paper in the future.

168. Mrs. BANDA-BOBO (Zambia) supported the proposal made by the Delegation of South Africa. She noted that few developing countries had participated in the deliberations of the SCT.

169. Mr. BELFORT (Haiti) said that the proposal made by South Africa was quite shrewd and that his Delegation had therefore decided to support it.

170. Mr. RAMÍREZ BATHEL (Dominican Republic) said that there was in fact a large technology divide between developing and developed countries, and added that although they wished it were that way, the existence of a certain reality in developing countries could not be denied. The only thing that they could do was to face up to and live through that reality and therefore his Delegation recommended greater flexibility in keeping with reality. He clarified that what was desirable was to achieve the implementation of a treaty that was feasible both now and in the future. He therefore said that his Delegation supported the position of South Africa and suggested that South Africa submit its proposal in writing.

[Suspension]

171. The CHAIR drew the attention of Main Committee I to two new documents containing proposals by the Delegation of the African Intellectual Property Organization (OAPI) concerning Articles 6 and 13 of the Basic Proposal for a Revised TLT (documents TLT/R/DC/7 and 8). He recalled that the Committee had already read Articles 1 to 8 of the Basic Proposal for a Revised TLT and the related Rules 1 to 6. He proposed to have no coffee break during the meeting of the Committee in the afternoon in order to accelerate the first reading of the provisions of the Basic Proposal.

172. Mr. MEJÍA GUEVARA (Honduras) announced a meeting of GRULAC at 2.30 p.m.

173. The CHAIR invited the Committee to consider Articles 9 and 10 of the Basic Proposal for a Revised TLT. In the absence of any delegation wishing to comment on these Articles, he turned to Article 11.

#### Article 11: Change in Ownership

174. Mr. GHORBANI (Islamic Republic of Iran) suggested that the expression “at the option of the requesting party” in Article 11(1)(b) be deleted. He held the view that the decision on the documentation accompanying a request for a change in ownership should be left to national Offices. He felt that it was inappropriate to offer an applicant or another requesting party a choice between different options.

175. Mr. PARKES (FICPI) pointed out that the language used in Article 11(1)(b) corresponded to the parallel provision in Article 11(1)(b) of the TLT. He stressed that the choice between different options with regard to the documents to be furnished in case of a change in ownership was a very important element for users and thus rendered the Treaty user-friendly.

176. The CHAIR felt that a good reason would have to be given for a departure from the TLT.

177. Mr. YACOUBA KAFFA (OAPI) recognized that he was closer to the reminder given by the honorable Delegate of the International Federation of Intellectual Property Attorneys (FICPI) because if the short phrase was deleted in line with the applicant’s wishes, he thought that the wording would contain the possibility for an office to request for example one or more of the documents listed. He considered that much greater flexibility should be given both to applicants and to offices so that applications could be processed with a little more care. For that reason, OAPI was not greatly in favor of a change or of disturbing the economy of the text.

178. Mr. GHORBANI (Islamic Republic of Iran) underlined that Main Committee I was not in a process of considering the TLT but a new treaty instrument. He recalled that the TLT had only 33 members and that the adoption of a Revised TLT aimed to broaden membership. He held the view that the provisions of the TLT should not be used as a yardstick for determining whether a proposal concerning the new Treaty was good or wrong.



179. Ms. BERESFORD (United States of America) held the view that the 33 members of the TLT had managed well with the provision in Article 11(1)(b) leaving several options to the party requesting the recordal of a change in ownership. She wondered why this solution which successfully applied in the members of the TLT should not be appropriate for more countries.

180. The CHAIR shared the view that positive experiences had been made with the text contained in the TLT.

181. The CHAIR adjourned the meeting.

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182. The CHAIR then turned to Rule 7 dealing with Manner of identification of an application without its application number and opened the floor for comments.

183. Mr. KHAN (Pakistan) wished to clarify that Rule 8 related to details concerning Article 5 on filing date.

184. The CHAIR said that there appeared to be no comments on Rule 7. He then turned to Article 12 Correction of a Mistake, which had no corresponding rules in the Regulations.

185. Ms. SUNKER (South Africa) asked to turn back to Article 11. Referring to Article 11(1)(b), she did not consider it adequate that the requesting party be left with the choice of documentation to be provided and, in this respect, she supported the intervention made by the Delegation of the Islamic Republic of Iran.

186. The CHAIR noted that there did not seem to be any comments on Article 12 and turned to Article 13, on which there were two written proposals. The first proposal was contained in document TLT/R/DC/8 and had been submitted by the Representative of OAPI.

187. Mr. YACOUBA KAFFA (OAPI) said that the OAPI proposal just took into account countries' practice and their legislation. He said that Annex III of the Bangui Agreement, which was the law of OAPI and its 16 Member States in relation to trademarks, provided the possibility for an applicant to request renewal in the year of the tenth anniversary, either within the following six months or in the six months preceding the anniversary date. After the tenth anniversary, an applicant was also granted the possibility to make a renewal request in return for payment of a penalty. He added that the penalty was justified owing to the additional work which that entailed for OAPI. In that regard, he said that, in accordance with their administrative procedure, prior to the deadline, applicants were already informed of the forthcoming deadline, and that the Office made a new classification of the filings which, on the day of the tenth anniversary, had still not been renewed. He said that those files were retained for six months so that late applicants, which had still not renewed, had a further six

months after the anniversary date to be able to request renewal. Therefore, if Article 13(1)(c) were adopted as it stood, he said that they would be obliged to readjust the Bangui Agreement completely and therefore to launch a relatively long and tedious revision procedure. In parallel, they would also be obliged to review their procedures and the way in which they managed trademark files. For that reason, he suggested that Article 13(1)(c) be deleted completely. The Representative specified, however, that his Delegation was in favor of any other proposal that would take account of their concerns.

188. Mr. PARKES (FICPI) asked the International Bureau of WIPO whether it could confirm his understanding that, under Article *5bis* of the Paris Convention there was a minimum period of six months for the payment of renewal fees with the payment of a surcharge.

189. Mr. HÖPPERGER (WIPO) said that the general provision of Article *5bis* of the Paris Convention provided for a grace period for the payment of renewal fees of at least six months, subject to a surcharge. This meant that, under the Paris Convention, a Contracting Party should give to trademark holders, after the date at which the fee was due, an opportunity to pay such a fee. The provision in Article 13 of the TLT went further because it also allowed holders to request the renewal within a period of six months after the actual date in which the renewal was due. Thus, if the renewal was dependent on a request and the request was made prior to the expiry of the registration but the fee was paid after, as long as the fee was paid within six months following the renewal date, and as long as there was a penalty fee, the registration remained valid. This was the reason why subparagraph (c) of Article 13 provided that Contracting Parties should give the holders the opportunity to present the request for renewal during the six months after the renewal date.

190. The CHAIR noted that in some systems the renewal was made simply through the payment of the renewal fee, whereas in this Article there was a request for renewal.

191. Mr. YACOUBA KAFFA (OAPI) said that he was unaware of whether it was a problem of translation and specified that they had in fact made a proposal to amend Article 13(1)(c) and not (b). He added that if the discussion were to continue in relation to the minimum periods prescribed by Rule 8 of the Regulations, and more particularly as regards the reference “at the earliest six months after” the due date, he emphasized that within their legislation once the period of six months after the tenth anniversary had passed, another procedure should be launched, i.e. a renewal procedure.

192. Mrs. ROAD D’IMPERIO (Uruguay) said that her Delegation wanted only to add a note to the clear explanation given by the International Bureau to the effect that that provision was already in the 1994 Treaty, either the Article or the Rule in the same conditions, or also that at that time what already existed was being repeated in accordance with Article *5bis*, as explained by the International Bureau.

193. The Secretariat, addressing the Delegate of OAPI, admitted that the expression “the date on which the renewal shall be made” might be read in a somewhat ambiguous manner. It emphasized, however, that the content of the debate in progress would be set down in the Summary Records of the Acts of the Diplomatic Conference. The Summary Records would

state that “the date on which the renewal shall be made” was the date on which registration expired. It hoped that the clarification given would be such as to reassure the OAPI Delegate on the matter.

194. Mr. YACOUBA KAFFA (OAPI) recalled the content of Article 13(1)(c), i.e. “any Contracting Party may require that the request for renewal be presented and the corresponding fee referred to in subparagraph (b) be paid, to the Office within the period fixed by the law of the Contracting Parties”. Also, as regards the actual renewal fee, he referred therefore to subparagraph (1)(b) “any Contracting Party may require that, in respect of the request for renewal, a fee be paid to the Office”. He once again asked the International Bureau to specify the nature of the fee in question: did that fee include both the renewal fee and the surcharge, or was it only the actual renewal fee? Furthermore, the OAPI Delegate recalled that it was necessary to take into account the different systems and so flexibility was required in that particular case. Finally, he added that he was well aware of the existence of the provision in the TLT 1994 but emphasized, however, that the 1994 Treaty was not set in stone, which explained moreover the current revision process.

195. The Secretariat said that it wished to explain how the wording of the provision should be understood. In that regard, it said that from the time when the renewal date had passed, the grace period then applied for the payment of the renewal fee. From that time onwards, Contracting Parties were perfectly free to request a surcharge. The Secretariat said that such a solution was also provided for by the Paris Convention and that consequently there was nothing new in it. The Secretariat therefore said that if the renewal fee was paid on the renewal date, it was a “standard” fee, whereas if the fee was paid after the renewal date, at that time offices had the possibility to demand a surcharge, in particular to cover the expenses incurred at an administrative level. In conclusion, the Secretariat specified that the system therefore contained nothing new and that everything was already provided for in the Paris Convention. It emphasized that the payment of the surcharge was referred to in Rule 8 of the Regulations.

196. Mr. ARBLASTER (Australia) requested a clarification on the proposal submitted by OAPI. In his understanding, that proposal did not relate to the question of when the fee was payable, but when the surcharge was due. He considered that the Treaty was silent on the issue of when the surcharge should be payable, but it would not be possible for the latter to be due before the former.

197. Mr. TRAPSIDA (Niger) said that he had listened carefully to the explanations given by the International Bureau and the Delegate of Australia. He said that the understanding that he had gained of the explanation given by the International Bureau was that the application of the surcharge could occur as of the end of the tenth year, and he emphasized that with reference to Rule 8 that did not appear to be so obvious. In accordance with Rule 8, the surcharge was imposed only at the end of the sixth month and that caused difficulty for him. He considered that was precisely the meaning of the amendment which was requested in order to avoid having to rewrite their legislation completely.

198. The CHAIR suggested considering a change in Rule 8 rather than in the Treaty. The advantage in doing so would be that the Rule could be changed in the future by the Assembly if that was deemed necessary.

199. Mr. PIAGET (Switzerland) said that in actual fact the problem appeared to be not in Article 13 but in Rule 8. He stated that the problem appeared to stem from the very understanding of the concept of renewal or renewal period. As a result, he wondered whether in Rule 8 it would not be possible to differentiate between the due date of the registration, i.e. the end of the 10-year period, and the renewal period. Consequently, he proposed the following wording for the last paragraph of Rule 8: “If the request for renewal is presented or the renewal fees are paid after the due date of the registration, any Contracting Party may subject the renewal to the payment of a surcharge”. The proposed wording should perhaps be revised but he was of the opinion that if the due date of the registration, i.e. the end of the 10-year period, were clearly distinguished it would be possible to make a distinction with the renewal period.

200. Mr. YACOUBA KAFFA (OAPI) noted that the International Bureau had promised to provide a great deal more explanation, in relation to the explanatory notes and the Rule, in the Final Act of the Diplomatic Conference. He added that unfortunately the Delegate of Switzerland had spoken so quickly that he had been unable to note down his proposal, and so he wished to be able to recopy it and requested a certain period of time from the Committee so that he may consult Yaoundé.

201. Mr. PIAGET (Switzerland) specified that the wording was only a draft which should obviously be discussed and, if necessary, improved. He emphasized that the first part of the second paragraph of Rule 8 remained unchanged “if the request for renewal is presented and/or the renewal fees are paid”, it was only thereafter that the wording changed “after the date on which the renewal is due, any Contracting Party ...”, and the end of Rule 8 remained unchanged.

202. Mr. WARDLE (New Zealand) held the view that there was perhaps not a problem with the substance of the provision but with its wording and suggested that the question be transferred to the Drafting Committee.

203. Mr. ARBLASTER (Australia) said that speaking as a member of the Drafting Committee it would be difficult for that body to deal with this provision without having a clear notion of the Committee’s intent.

204. Mr. KHAN (Pakistan) pointed out that Rule 8 concerned the renewal of a registration. The TRIPS Agreement provided for an initial term of registration and renewal terms of 10 years. He informed Main Committee I that, like most national laws, Pakistan allowed the renewal fee to be paid during a period of six months prior to the last day of the registration. Under Rule 8, a further period of six months had to be given after the expiry of that date. During this grace period, the registration could still be renewed subject to the payment of a surcharge. The Delegate wondered in which way the date could be fixed until which renewal on payment of a surcharge would be allowed. In addition, he sought clarification whether Contracting Parties would be obliged not to remove the mark from the register until the grace period expired.

205. The CHAIR proposed that delegations which had expressed their concern, such as Switzerland and OAPI, hold informal consultations in order to draft a text which would give more precise instructions to the Drafting Committee.

206. Mrs. ROAD D'IMPERIO (Uruguay) said that with regard to the intention expressed by the Chair whereby the Drafting Committee would take up the point of discussion concerning the second sentence of Rule 8, as the Chair of the Drafting Committee her Delegation wanted it to be made clear what the scope was of the amendment to be made and that more information or tools should be provided in order to further the discussion.

207. The CHAIR agreed that the delegations concerned should hold informal consultations to draft a text which could be presented to Main Committee I for further consideration.

208. Mr. SISSOKO (Mali) said that Rule 8 did not pose a problem contrary to the definition of the due date. As a result, he wished to know at what point a trademark lapsed. He added that if that definition were provided, then everything would become clear.

209. Mr. MTESA (Zambia) expressed support for the interventions made by the Delegation of Australia and the Delegation of Uruguay. He held the view that the issue was of a substantive nature and that, for this reason, it could not be left to the Drafting Committee. He suggested that Main Committee I leave the matter for the time being and return to it after the delegations concerned had had the opportunity to hold informal consultations.

210. Mr. DIOH (Senegal) said that if the part of the sentence ending "six months after that date" were deleted there would no longer be a problem given that the date in the proposal by Switzerland actually referred to the due date of the registration, i.e. to the anniversary date of the filing and of the entry into force of protection.

211. Mr. PARKES (FICPI) suggested considering replacing the words "the date on which renewal is due" in Rule 8 with the expression "the end of the duration of the period of registration" which would be in line with the wording of Article 13(5) and the period of 10 years mentioned by the Delegation of OAPI.

212. Mr. HÖPPERGER (WIPO) said that, even though the proposal made by the Delegation of Switzerland was tempting, an inherent problem had to be considered. Technically speaking the trademark had not expired as long as the grace period of six months was applicable. In consequence, the date of expiry also constituted an ambiguous point in time with regard to the payment of the renewal fee and the surcharge. In his view, the proposal made by the Representative of FICPI pointed towards the right direction because it disassociated the expiry from the payment of the surcharge and referred clearly to the period of registration. He explained that the wording used in the Basic Proposal had initially been chosen because, as a result of the obligation under the Paris Convention to provide for a grace period of six months, it was not clear when the period of registration ended. Although the period of registration was already over, it was still possible to renew the registration. In practice, most Offices waited until the expiry of the grace period before rectifying the register. As the choice of words reflecting the complex situation was difficult, he felt that informal consultations would be appropriate to explore alternatives to the present wording that took into account all concerns which had been expressed.

213. Mr. YACOUBA KAFFA (OAPI) said that he noted the proposal pending consultations with Yaoundé and the Member States of OAPI. He emphasized, however, that Rule 8 was sometimes a source of uncertainty because it was difficult to know exactly when the period ended. In the French version, it was specified that the period was "at least six months", which

meant that it was possible in advance to give more time, i.e. more than six months before the date on which the renewal must be made, to present the request for renewal and pay the corresponding renewal fee. By contrast, Rule 8 stated that the period ended “at the earliest six months” after the date on which the renewal should be made. He considered that that was the minimum that could be given and that, as a result, it was possible to extend the period up to one year. As he had explained previously, their system was based on the Paris Convention, i.e. six months before and six months after. Therefore, once the period of six months after the tenth anniversary had elapsed a new “renewal” period began. In that connection, he emphasized that a renewal period was not a grace period because the rights were no longer really the same and the rights of third parties should also be taken into account. He said that he was in complete agreement with the proposal by the Chair to undertake informal consultations. Finally, he added that he would make known his concerns to the Drafting Committee.

214. Mr. ARBLASTER (Australia) wondered whether the problem of the wording of Rule 8 resulted from the way in which the English text of the provision had been translated into French. In his view, the English text was clear. He understood that the Delegation of OAPI did not seek to change the substance of the provision. Therefore, it was necessary to reconcile the English and the French text in a way which would ensure the clarity of both texts. He supported informal consultations to achieve this goal.

215. The CHAIR stressed the necessity to harmonize all language versions and to fully reflect all problems in all language versions. He said that interested French- and English-speaking delegations should hold informal consultations on the wording of Rule 8 before proceeding further in Main Committee I and the Drafting Committee. On this understanding, he opened discussion on Article 13(2) to (5).

216. Mr. KIANI (Islamic Republic of Iran) proposed to delete Article 13(2)(i). He wondered about the reasons for excluding the requirement that a reproduction of the mark be furnished when requesting its renewal. He reserved the right to return to Article 13(2)(i) after he had had the opportunity to hold further consultations.

217. Mr. HÖPPERGER (WIPO) pointed out that a request for renewal could only be presented after the mark had finally been registered and kept in the register for the initial period of registration. Therefore, it should not be difficult to identify the mark concerned if the request for renewal indicated the registration number. He explained that Article 13(2)(i) served the purpose of simplifying the renewal procedure. There seemed to be no need to apply a procedure which was comparable to the initial application procedure. He also recalled that there were so-called trademark annuity firms specializing in the renewal of trademarks. In his view, their work would be rendered difficult if renewal procedures resembled application procedures.

218. The CHAIR agreed that it would seem inappropriate to be obliged to repeat the application process when requesting the renewal of a mark. He drew the attention of Main Committee I to document TLT/R/DC/7 containing a proposal by the Delegation of Japan to introduce a new Article 13(6). He opened discussion on this proposal.

219. Mr. TASHIRO (Japan) pointed out that the Basic Proposal for a Revised TLT did not contain a provision which corresponded to the transitional provision in Article 22(6) of the TLT. He recalled that Article 22(6) of the TLT had been established in consideration of the unique situation surrounding service marks in Japan, and stressed that the provision was necessary for the trademark administration process in Japan. The contents of Article 22(6) of the TLT should be maintained in the Revised TLT.

220. He explained that Japan had adopted a service mark registration system in April 1992. That system allowed the registration of service marks for which applications had been filed within six months counted from the date of implementation of the system, regardless of whether the applications concerned were in conflict with each other. This practice had resulted in redundant registrations. In order to solve the problem of multiple registrations, multiply registered service marks had to undergo substantive examination only at the time of first renewal, which was carried out 10 years after the registration date. Specifically, the examiner should consider whether renewal was requested for any other multiply registered service mark, and if so, whether or not the service mark in question was liable to cause confusion as to the owner of the mark. If the examiner decided that a multiple service mark held by another person had become more famous through use over the past 10 years since the marks had been registered, he should not allow the renewal of the service mark concerned.

221. The Delegate said that Article 22(6) of the TLT allowed Japan to carry out substantive examination for multiply registered service marks at the time of first renewal, despite the prohibition contained in Article 13(6) of the TLT. The inclusion of Article 22(6) in the Revised TLT was necessary because the Office of Japan needed to eliminate multiple registrations. He added that the final multiple registration had been made at the end of the year 2000. Therefore, the transitional provision of Article 22(6) of the TLT should be included in the Revised TLT until around the year 2011.

222. The CHAIR wondered whether a phase-out period should be added to the provision proposed by the Delegation of Japan.

223. Ms. BERESFORD (United States of America) said that she had no objections to the proposal by the Delegation of Japan because it was so limited in scope. It would apply only to a specific country legislation model and only to the renewal of those service marks that had been filed during the first six months following the entry into force of the specific legislation concerned. Although the proposal set no time limit, she felt that there was a very practical limit on the number of service mark registrations that would be examined at the time of renewal. She recalled that the narrow exception sought by the Delegation of Japan was reflected in the TLT.

224. The CHAIR agreed that there seemed to be an automatic phasing-out mechanism resulting from the very nature of the provision proposed by the Delegation of Japan.

225. Mr. CHOI (Republic of Korea) expressed support for the proposal by the Delegation of Japan. He underlined that the issue had been dealt with in Article 22(6) of the TLT. In view of the current situation in Japan, he held the view that the issue should be reflected in some way in the framework of the Revised TLT. He felt that the need for the provision was understandable.

226. Mr. CARLSON (Sweden) said that he had no objection to the substance of the proposal by the Delegation of Japan. He agreed with the Delegation of the United States of America on its limited scope. He wondered whether it would be acceptable for the Delegation of Japan to include the proposed additional provision in the Regulations. As it was a transient problem, this would permit to change the provision more easily once it was no longer necessary.

227. Mr. BISEREKO (Uganda) expressed support for the proposal by the Delegation of Japan. In his view, the proposal reflected an appropriate way of introducing service marks in national trademark systems.

228. Ms. BERESFORD (United States of America) wondered whether the provision proposed by the Delegation of Japan could be moved to the Regulations. As it modified a Treaty provision, it seemed more appropriate to create a transitional provision in the final and administrative clauses of the Revised TLT. The issue could be dealt with by Main Committee II.

229. Mr. TASHIRO (Japan) considered it acceptable to embody the provision proposed by his Delegation in a transitional provision in the final and administrative clauses of the Revised TLT.

230. The CHAIR expressed his gratitude for the flexibility shown by the Delegation of Japan. He wondered whether Main Committee I could agree on the substance of the proposal.

231. Mr. ARBLASTER (Australia) proposed to inform Main Committee II that Main Committee I had no objections to the substance of the proposal by the Delegation of Japan.

232. Mr. HÖPPERGER (WIPO) said that, as a new article had to be devised, it might be preferable to send the proposal to the Drafting Committee first. The Drafting Committee could be asked to submit the new provision directly to Main Committee II.

233. The CHAIR agreed on this way of proceeding further.

234. Mr. GHORBANI (Islamic Republic of Iran) suggested that the Delegation of Japan present a proposal to Main Committee II.

235. The CHAIR pointed out that there seemed to be consensus on the substance of the proposal by the Delegation of Japan in Main Committee I. In his view, it was unnecessary to impose the burden on the Delegation of Japan to prepare a new proposal which then would have to be processed by the International Bureau.

236. Mr. ARBLASTER (Australia) said that the most efficient way of dealing with the proposal would be to send it to the Drafting Committee which could then send it directly to Main Committee II.

237. Mr. TOPIĆ (Croatia) expressed support for proceeding in the way described by the International Bureau.



238. Mrs. ROAD D'IMPERIO (Uruguay) said that her Delegation had also understood that, with respect to the substance of the matter put forward by the Delegation of Japan, there was a consensus, i.e. that the correct and quickest formal way was that indicated by the International Bureau and ratified by the Chair of the Conference.

239. Mr. GHORBANI (Islamic Republic of Iran) said that the proposal could be sent to the Drafting Committee.

240. The CHAIR concluded that there was consensus on the proposal by the Delegation of Japan. The Drafting Committee would be asked to create a new article in the final and administrative clauses of the Revised TLT and submit the new provision directly to Main Committee II.

#### Article 14: Relief Measures in Case of Failure to Comply with Time Limits

##### Rule 9: Relief Measures in Case of Failure to Comply with Time Limits

241. The CHAIR opened discussion on Article 14. He recalled that this provision had been discussed extensively in the SCT. While Article 14(1) contained a “may” provision which highlighted an option for Contracting Parties to provide for a relief measure before the expiry of a time limit, Article 14(2) set out three different relief measures, at least one of which had to be offered after the expiry of a time limit. In the case of Article 14(2), Contracting Parties would thus be obliged to adopt at least one relief measure out of the three possibilities reflected in the provision.

242. Mrs. DAFAUCE MENÉNDEZ (Spain) suggested that the order of the wording of Rule 8 should be changed.

243. The CHAIR proposed that the Delegation of Spain join the informal consultations on Rule 8. He returned to the consideration of Article 14.

244. Mr. TASHIRO (Japan) announced a proposal concerning Rule 9.

245. Mrs. FARAH (Morocco), referring to Article 14(2) of the French version of the Basic Proposal, suggested deleting the word “des” from the phrase “the Contracting Party shall provide for one or more of the following relief measures”. The new wording should therefore be “the Contracting Party shall provide for one or more relief measures ...”.

246. The CHAIR enquired of the Delegation of Morocco as to whether it had understood its statement correctly and asked it to confirm whether in the phrase “the Contracting Party shall provide for one or more of the following relief measures”, the word “des” should actually be deleted.

247. Mr. DIOH (Senegal) considered that the term “des” in Article 14(2) should be retained, otherwise the text would have no meaning.

248. The Secretariat said that the expression in brackets “the time limit concerned” had intentionally been introduced into the text so as to make the provision, which was after all fairly complex, more readable. Thus, the time limit concerned referred to the limit that the

applicant or owner or another interested party had not observed. The Secretariat added that if, on each occasion, it was necessary to repeat the phrase instead of using the abbreviated form “the time limit concerned”, the paragraph would be three times longer. Finally, it specified that that was a drafting device so as to make the text more readable.

249. The CHAIR concluded that the issue concerned a question of drafting and should be dealt with by the Drafting Committee. With regard to Rule 9, he proposed to postpone the discussion until the proposal by the Delegation of Japan had been made available.

250. Mr. WARDLE (New Zealand) informed Main Committee I that his Delegation had also submitted a proposal in respect of Rule 9, the production of which was under way. The proposal concerned Rule 9(1)(i), (2)(i) and (3)(i).

#### Articles 15 to 18

251. The CHAIR turned to Article 15. In the absence of any request for the floor, he opened discussion on Article 16 and recalled the provisions contained in the TRIPS Agreement which sought to establish equality between trademarks and service marks. In the absence of any request for the floor, he turned to Articles 17, 18 and 19.

#### Article 19: Effects of the Non-Recordal of a License

252. Mrs. DAFAUCE MENÉNDEZ (Spain) said that Article 19(2) of the proposed Treaty stated that “a Contracting Party may not require the recordal of a license as a condition for any right that the licensee may have under the law of that Contracting Party to join infringement proceedings initiated by the holder or to obtain, by way of such proceedings, damages resulting from an infringement of the mark which is the subject of the license”. She considered that the content of that Article clashed with the rules contained in her domestic Law on Trademarks and her Delegation therefore endorsed the reservation that was established in Article 29 of the Treaty.

253. The CHAIR wondered whether the reservation allowed under Article 29(2) would accommodate the concern expressed by the Delegation of Spain.

254. Mrs. DAFAUCE MENÉNDEZ (Spain) clarified that she was referring to Article 29(2) which in turn referred expressly to Article 19(2) of the Treaty, which was currently being examined.

255. The CHAIR noted that the Delegation of Spain had announced a desire to make use of the reservation for which Article 29(2) provided.

256. Mr. YACOUBA KAFFA (OAPI) said that his Delegation required reassurance from the International Bureau regarding Article 19(2). It wished to ensure that it had understood the provision perfectly. On reading the provision, it understood that in the case of non-recordal of a license by the licensee, as a sanction the licensee could not, following a non-recordal by the owner, replace him in infringement proceedings. It also understood that that would not prevent the licensee from being able to demand damages in cases where it had suffered harm, where such proceedings were instituted by the owner. The OAPI Delegate hoped that the International Bureau would confirm whether his understanding was correct and whether any

other person, in the case of an exclusive license or otherwise, could possibly intervene. He said that if that were the case, there would be no problem, but that should the opposite be true, the Delegation would be obliged to review its position.

257. Mr. KHAN (Pakistan) held the view that the issue deserved consideration. He informed Main Committee I that, in Pakistan, the recordal of licenses was obligatory. He feared that the non-recordal of licenses would create a risk of trafficking because the users of a trademark could not be determined on the basis of the register. In the case of a large number of persons using a trademark, the quality of the goods and services concerned could be affected negatively. He stressed that the non-recordal of licenses may also raise problems with regard to infringement proceedings and resulting damages. For these reasons, Pakistan would use the reservation in Article 29(2).

258. Mr. OMOROV (Kyrgyzstan) referred to Article 17(4)(a)(ii). He informed Main Committee I that, under the national law of Kyrgyzstan, it was mandatory to submit documents or certificates, such as the license contract, when requesting the recordal of a license. He pointed out that his country would be prepared to modify its domestic legislation in the light of a potential consensus. The provisions of the Revised TLT could serve as a model for the amendment of national legislation in Kyrgyzstan.

259. Mr. YACOUBA KAFFA (OAPI) wished to draw the Committee's attention to the notes accompanying the Basic Proposal, contained in document TLT/R/DC/5. He said that a whole series of explanatory notes accompanied Article 19 and more particularly he referred to paragraph (2) where it was stated, in general terms, that the Basic Proposal in no way obliged the Contracting Parties to give a licensee the right or otherwise to institute legal proceedings. He specified that what was stated in Article 19(2) was that where a mark was used under license and it transpired that the mark had been counterfeited, the fact that the license was not recorded should not prevent the licensee from initiating legal proceedings on its own behalf, or from joining proceedings initiated by the owner with a request for damages for example.

260. The Delegate noted that the Basic Proposal did not deal with the question of whether the licensee itself had the right to initiate legal proceedings, and referred only to a situation where the licensee wished to join such proceedings, in particular to demand damages.

261. He emphasized the fact that all that was stated in Article 19(2) was the fact that a license not recorded did not prevent the licensee from joining proceedings against counterfeiting initiated by the owner. He noted that the provision had encountered some opposition during the preparatory work, which helped to explain the possibility of making a reservation, as provided for in Article 29.

262. He said that the WIPO Standing Committee had finally concluded that if a licensee were not given that possibility, that would ultimately benefit counterfeiters. In the case of a licensee using a mark in good faith, and if it appeared that counterfeit versions existed on the territory for which the license was granted, at that time the licensee would not have the possibility to request damages.

263. Once again, the Delegate emphasized the fact that a licensee was not given the right to initiate legal proceedings in its own name. That was a right which in some way was reserved for the owner and where the owner instituted such proceedings, the licensee should have the possibility to join those proceedings in order to obtain damages.

264. Mr. HÖPPERGER (WIPO) said that the International Bureau once again drew the Committee's attention to the notes accompanying the Basic Proposal, contained in document TLT/R/DC/5. There was a whole series of explanatory notes accompanying Article 19, and more particularly paragraph (2) of that provision where it was already stated in general terms that the Basic Proposal did not contain any obligation to give licensees the right to initiate legal proceedings. The International Bureau therefore specified that all that was stated in Article 19(2) was that where a mark was used under license and it transpired that a counterfeit version of that mark existed, the fact that the license was not recorded should not prevent the licensee from initiating legal proceedings in its own name or from joining proceedings initiated by the owner itself in order to request damages. It was true that the Basic Proposal did not go so far as to impose, on the licensee itself, the right to initiate legal proceedings.

265. The International Bureau therefore specified that all that was stated by Article 19(2) was the fact that the license was not recorded but it should not prevent the licensee from being able to choose between instituting proceedings itself or being party to proceedings initiated by the owner. The International Bureau emphasized that the provision had encountered some opposition during the preparatory work and, for that reason, the possibility of a reservation had been provided for in Article 29. The International Bureau recalled that the provision had been provided since the WIPO Standing Committee had considered that if such a possibility were not given to the licensee that would ultimately benefit the counterfeiter. In the case of a licensee using the mark in good faith and where it appeared that counterfeiting existed on the territory for which the license had been granted, the licensee would not have the possibility to recover damages. The International Bureau once again emphasized that the licensee was not given the right to initiate legal proceedings in its own name, as that right was in some way reserved for the owner, although where the owner instituted such proceedings the licensee must have the possibility to join those proceedings in order to obtain damages, despite the fact that the license was not recorded. The International Bureau said that the possibility also existed of providing a reservation in that regard, as had already been discussed by the Delegate of Spain. Finally, the International Bureau drew the attention of participants to the Notes relating to Article 19, which contained a whole series of relevant explanations, but also emphasized that it remained available to delegations to provide broader explanations where necessary.

266. Mr. HÖPPERGER (WIPO) stressed with regard to the intervention made by the Delegation of Pakistan that nothing in the Basic Proposal prevented a Contracting Party from requiring the recordal of a license. He said that it was frequent practice to provide for the compulsory or optional recordal of trademark licenses in order to enhance security in the business environment. Recognizing the different practices, the provisions of the Basic Proposal on trademark licenses were drafted so as to streamline related administrative procedures without precluding different national approaches.

267. Mr. PIAGET (Switzerland), referring to the first part of the explanations, said that he wished to clarify two points. Article 19(2) should not be problematic for the delegations present for two essential reasons. The first was that the scope of Article 19(2) was extremely

narrow and, as stated by the International Bureau, the prohibition placed on recordal did not refer to a licensee's proceedings for damages, for example, but to something much more limited, i.e. the involvement of the licensee in proceedings initiated by the owner. He specified that in Swiss law reference was made to involvement in the technical sense of the term. The Delegate also emphasized that the scope of Article 19(2) was extremely narrow and that, consequently, the provision should affect only very few delegations. Further, he said that even on the assumption that the provision and its effects were to cause problems for certain delegations, as appeared to be the case for Spain, there still remained the possibility of entering a reservation so as not to be bound by Article 19(2), as stated by the International Bureau.

268. Mr. DONG (CTA) underlined that the issue of trademark licenses seemed very important in today's economic environment. There were many cases involving the licensing of the right to use a trademark to another party. He explained that the old legal system in China had been similar to the system of Pakistan, requiring the licensee of a trademark to register with the Office. Otherwise, administrative fines would have been imposed. If a license still had not been registered, the license and the trademark registration could be revoked after the expiry of a certain period of grace. A new trademark law, which had been adopted in 2001, recognized rights in trademarks as private rights and the contractual relationship between the licensor and the licensee. If, under the new law, a license was registered at least until the expiry of a certain grace period, no administrative fines were imposed and the trademark registration was not revoked. Pursuant to legal doctrine in China, the licensee would not have the possibility to seek damages and to participate in litigation processes if the trademark license had not been recorded.

269. The Representative held the view that Articles 17 and 18 of the Basic Proposal regulated the need to record a trademark license with the Office in a way that was less liberal than trademark legislation in China. He felt that Article 19 gave rights of a different kind to the licensor and the licensee. The reservation permitted under Article 29 was compatible with the practice of the courts in China. He informed Main Committee I that the intermediate court of Shanghai had decided numerous cases concerning the relationship between the licensor and the licensee. In business practice, the licensor received a certain amount of money from the licensee. In turn, the licensee required the licensor to record the license with the Office. If, however, the licensor refused to register the license, the licensee did not have the possibility to seek damages in case of infringement. The Representative felt that, in this situation, the court practice in China did not offer an effective mechanism for ensuring the recordal of a license. He wondered whether it would be appropriate to require the licensor to record the license and impose certain penalties in case he or she did not fulfill this obligation. He feared that, otherwise, the courts would not be able to settle disputes between the licensor and the licensee.

270. The CHAIR explained that the Basic Proposal established a legal framework for those Member States providing for the recordal of licenses. He pointed out that there was no obligation under the Revised TLT to do so. The Basic Proposal thus allowed the coexistence of different systems. In the absence of any further comments with regard to Article 19 and any request for the floor with regard to Article 20, he turned to Rule 10.

Rule 10: Requirements Concerning the Request for Recordal of a License or for Amendment or Cancellation of the Recordal of a License

271. Mrs. FARAH (Morocco) said that in relation to Rule 10(1)(a)(ix) of the Regulations, mention should also be made of the application number for the mark which was the subject of the license, instead of the registration number alone.

272. The CHAIR said that a request for the recordal of a license could be made with regard to an application and a registration alike. He referred to the horizontal provision laid down in Article 17(6).

273. Mr. HÖPPERGER (WIPO) asked the Delegate of Morocco if she could repeat what she had said because he had not understood clearly what she meant. He said that he would listen to the original French version so as better to understand her statement.

274. Mr. YACOUBA KAFFA (OAPI) said that if the question referred to an application number for the mark, the explanations given by the Delegate of Morocco and the Secretariat were largely sufficient. By contrast, he added that if the application number referred to the request for recordal, in that case it went without saying that it would not be possible insofar as it was the Office that received it and that determined the number of a request for recordal. Consequently, the Delegate considered that the addition was possible only if it actually related to an application number. Conversely, if the Delegate were referring to the number of the request for recordal, in that case it appeared to be difficult to accept the proposal.

275. Mrs. FARAH (Morocco) specified that her statement related to paragraph 1(ix), concerning the content of the request. In that regard, she said that the provision contained in the Regulations provided for the indication of the registration number of the mark which was the subject of the license. If it were possible, she proposed that the application or registration number should be indicated, given that the recordal of a license, concerning an application or a registered mark was permitted.

276. Mr. ARBLASTER (Australia) underlined that the system of applying certain provisions *mutatis mutandis* was used on many occasions throughout the Revised TLT. In his view, Article 17(6) also applied to the Regulations and therefore covered Rule 10. For the text of Rule 10 to be correct, no further mention of applications was needed. He held the view that an express reference to applications should not be added in Rule 10. This would damage the general principle of *mutatis mutandis* application and give rise to the question whether the principle was applicable to other provisions in which no express reference was made.

277. Mrs. FARAH (Morocco) said that in the case of a registration application, a number should be indicated all the same. She specified that that was the application number and that as yet there was no registration.

278. The CHAIR wondered whether the intervention by the Delegation of Morocco concerned the number of the trademark application or the number of the request for the recordal of a license.

279. Mrs. EL TINAY (Sudan) drew the attention of Main Committee I to an ambiguous term to be found in the Arabic text of Articles 17, 18 and 19. The Arabic word used for “recordal” may be misunderstood in the sense of “restriction”.

280. Mrs. MARQUES CLETO (Portugal) referred to the intervention made by the Delegation of Australia. She held the view that the *mutatis mutandis* principle did not hinder express mention of the number of the request for recordal of a license in Rule 10. She pointed out that, pursuant to the practice of the Office of Portugal, the registration number and the number of the request for the recordal of a license were identical.

281. Miss KADRI (Algeria) said that the Article did not pose any problems and that it should simply be sent back to the Drafting Committee. She added that Article 9 was on the same subject and that it was also possible to find a reference to “request for registration” in the Model International Form No. 1.

282. Mr. OMOROV (Kyrgyzstan) pointed out that, in Kyrgyzstan, the indication of the territory covered by a trademark license was mandatory. He felt that the reference to “a part of the territory” in Rule 10(1)(xii) was not entirely clear in the Russian text of the Basic Proposal. He proposed to add a clarification at the end of Rule 10(1)(xii) to the effect that the indication of the territory concerned could be required. In Rule 10(1)(b)(i), the reference to items (i) to (ix) of Rule 10(1)(a) should be extended to items (x) to (xii) of that provision.

283. Mrs. RÍOS DE DAVIS (Panama) requested clarification since when referring to the application number, that would concern the application for recordal of a license on the basis of a legal expectation, since the applicant still would not have the registered mark. The Delegate said that was of concern to her and that therefore she was seeking an explanation from the Secretariat in that regard. In fact, she assumed that the applicant was to have the registered mark and not only a legal expectation in order to be able to record a license at a given time.

284. The CHAIR held the view that the issue raised by the Delegation of Panama was subject to national law and not precluded by the Basic Proposal.

285. Mr. PARKES (FICPI) referred to Rule 10(1)(a)(ix). He drew the attention of Main Committee I to the fact that the request for the recordal of a license may be made simultaneously with the application for the registration of a trademark, particularly when the mark was intended to be used exclusively by the licensee. He assumed that, in such a case, Rule 7 would be applied to identify the application. With regard to Rule 10(1)(a)(viii), he recalled the written statement on behalf of FICPI which had been made available to delegations. A request for the recordal of a license would be made in a situation where the holder had already registered the trademark or had filed an application. Pursuant to Article 3(1)(a)(iv), a Contracting Party could require in this situation that the applicant state the legal nature of the legal entity concerned and the State etc. under the law of which the legal entity had been organized. The Representative held the view that it would therefore be unnecessary to impose the obligation on the holder to repeat this information when requesting the recordal of a license. He suggested that the words “the holder or” in Rule 10(1)(a)(viii) be deleted and Model International Form No. 11 be amended accordingly.

286. The CHAIR wondered whether the issue raised by the Delegation of Morocco could be dealt with by the Drafting Committee.

287. Mrs. FARAH (Morocco) said that there was still ambiguity in relation to Rule 10. She considered that when the mark registration number was requested, it was as if it were necessary to wait for the mark to be registered in order to have the possibility to make a license recordal request. She said that if there were no risk of confusion she would be satisfied with those explanations.

288. The CHAIR concluded that the Drafting Committee should explore the issue raised by the Delegation of Morocco and report back to Main Committee I if it found a problem of a substantive nature.

289. The CHAIR adjourned the meeting.

Fifth Meeting Friday, March 17, 2006 Morning
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#### Article 21: Observations in Case of Intended Refusal

290. The CHAIR opened discussion on Article 21.

291. Ms. SCHMIDT (Germany) expressed the view that Article 21 ensured the right of the applicant or a requesting party to be heard with its arguments and observations before the Office took any decision which was not in favor of the application or request. She underlined that this principle of the right to be heard was well-established in Germany and guaranteed as a constitutional right. In her view, the requirement of giving the parties the opportunity to submit observations before a decision was taken by the Office related only to those cases in which the Office had a possibility to base its decision on the arguments advanced by the applicant. This was obviously not the case where the consequence of a certain situation –mostly after the expiry of a time limit– was stipulated by national law or another binding regulation, and where the Office was not free to take any other decision. In those cases, relief measures could be offered after the expiry of a time limit, as envisaged in Article 14.

292. The Delegate felt that the Explanatory Notes were ambiguous in this regard. It was her understanding that the Notes would neither be discussed nor approved at the Conference. She pointed out that it would be appreciated by her Delegation if, in case of a revision of the Notes, the International Bureau could take into account her observation.

293. Mr. AL-MOHAMMED (Iraq) pointed out that the expression “in respect of Article 14” to be found in the English text of the provision had not been translated into Arabic.



294. Mr. ARBLASTER (Australia) wondered whether the issue pointed out by the Delegation of Iraq would be referred to the Drafting Committee. In general, he raised the issue of how to harmonize the different language versions of the legal texts under consideration.

295. The CHAIR explained that the International Bureau would deal with translation errors. The translators would participate in the meetings of the Drafting Committee.

296. Mr. AL-MOHAMMED (Iraq) clarified that he was not referring to a translation error but an omission in the Arabic text.

297. The CHAIR said that it had to be ensured that all language versions were compatible. This was a matter of drafting. He agreed that the issue pointed out by the Delegation of Iraq constituted a clerical error.

298. Mr. MAHINGILO (United Republic of Tanzania) sought clarification on the expression “reasonable time limit” used in Article 21. He pointed out that the Basic Proposal did not provide any definition of this term.

299. The CHAIR explained that the term was particularly used in Anglo-American statutory law.

300. Mr. ARBLASTER (Australia) held the view that the term “reasonable time limit” offered room for individual decisions under national law. It constituted an element of flexibility. The term would require taking a decision in the light of the specific circumstances of the individual case concerned.

301. Mr. KHAN (Pakistan) said that Article 21 constituted a provision ensuring national justice. He believed that the principle expressed in Article 21 to be widespread. In Pakistan, whenever there was a refusal, the applicant was properly informed and could enter into appeal procedures. The reasonable time limit referred to in Article 21 started from the notification of the applicant or other requesting party concerned.

#### Article 22: Regulations

302. The CHAIR opened discussions on Article 22. He drew the attention of Main Committee I to the proposal by the Delegation of South Africa which was reproduced in document TLT/R/DC/15.

303. Mr. KRAPPIE (South Africa) expressed the view that the status of the Regulations was not clear. Article 22(4) implied that the Regulations formed a part of the Treaty but had a lower status. He pointed out that, according to Article 23(2)(ii), the Regulations could be amended by the Assembly. He believed that this system would work well in practice. A specific provision clarifying the status of the Regulations, however, would be useful.

304. Mr. ARBLASTER (Australia) expressed support for the effort to clarify the language of the Treaty made by the Delegation of South Africa. He wondered whether the International Bureau could provide further guidance on the issue.

305. Ms. BERESFORD (United States of America) stressed that she had never seen the language proposed by the Delegation of South Africa before. She wondered about its impact on the status of the Regulations and sought further clarification in this respect.

306. Mr. WARDLE (New Zealand) expressed his uncertainty as to the language proposed by the Delegation of South Africa. He underlined that his Delegation would be prepared to support the clarification of the Basic Proposal and recalled that Article 14(1)(a) of the Patent Law Treaty referred to “[t]he Regulations annexed to this Treaty”.

307. Mr. HÖPPERGER (WIPO) said that he could not provide a prevailing interpretation of the provision. He proposed to seek advice from the Legal Counsel and compare the language used in the Basic Proposal with the texts of other international treaties administered by WIPO.

308. Mr. CONSTENLA ARGUEDAS (Costa Rica) said that, in relation to the subject being discussed, he could perhaps help a little to clarify the matter. He said that he worked for the International Treaties Office of the Chancellery of Costa Rica and that the documents he had available included the Vienna Convention on the Law of Treaties. That Convention contained an article that might clarify a little the sentiment that was currently being expressed by a number of delegations. Article 31(2) of the Convention stated that “the context for the purpose of the interpretation of the Treaty shall comprise, in addition to the text, including its preamble and annexes”... The Delegate said that he hoped that in some way that Article could serve to shed light on the possible value of the Regulations together with the framework document that would be constituted by the Revised Treaty.

309. The CHAIR adjourned the meeting.

Sixth Meeting Friday, March 17, 2006 Afternoon
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310. The CHAIR referred to the discussion on the proposal made by the Delegation of South Africa on Article 22(1)(a). He noted that, upon consultations with the Legal Counsel of WIPO, it had been determined that the provision in question could be drafted after Article 14(1) of the Patent Law Treaty, which read: “the Regulations annexed to this Treaty provide Rules concerning...” Taking this formulation would have the advantage of consistency with the language used in other WIPO-administered treaties and would also be consistent with the Vienna Convention on the Law of Treaties, which had been mentioned by the Delegation of Costa Rica. He also noted that this formulation would also be helpful to have a consistent interpretation of WIPO-administered treaties.

311. Mr. STEMMET (South Africa) supported the suggestion made by the Chair.

312. The CHAIR noted that there were no additional comments on Article 22. He suggested that the Committee establish a first list of articles and rules that had received consensus, so that they could be submitted to the Drafting Committee.

313. Mr. HÖPPERGER (WIPO) established that list as follows: Articles 7, 9, 10, 12, 14, 15 to 22 and Rules 1, 2, 4, 5 and 7.

314. Mr. GHORBANI (Islamic Republic of Iran) announced that his Delegation would submit proposals on Articles 11(1)(b), 13(2)(i) and Rules 3(4)(b) and 10(2)(a), 10(3)(a) and 10(4).

315. Mr. ZAHROV (Ukraine) wondered whether the Committee could discuss a proposal on Article 8.

316. The CHAIR replied that the Committee would discuss those proposals which had been submitted in writing.

317. Mr. WARDLE (New Zealand) wondered what the situation was with Rule 9.

318. The CHAIR explained that Rule 9 would not yet be submitted to the Drafting Committee.

319. Mr. TASHIRO (Japan) announced that the Delegation of Japan wished to provide a clarification on Rule 10, but not a proposal.

320. The CHAIR suggested to start the analysis of proposals submitted on Article 1. He then turned to the proposal submitted by the Delegation of South Africa and contained in document TLT/R/DC/15, to arrange the abbreviated expressions in alphabetical order, according with standard treaty practice.

321. Mr. STEMMET (South Africa) said that his proposal was not substantive but it might help someone who was reading the Treaty for the first time. His Delegation was nevertheless ready to withdraw its proposal if other delegations considered that it was not essential.

322. Mr. HÖPPERGER (WIPO) said that, on this point once more, the order of the abbreviated expressions followed the in-house practice of WIPO. The main reason for not arranging those expressions in alphabetical order was that probably, the order would only follow in one of the official languages of the Treaty. He noted that the Preparatory Meeting had considered that this practice should be followed and wondered if the Committee could take that advice.

323. Mr. STEMMET (South Africa) withdrew his proposal on Article 1.

324. The CHAIR noted that, since there were no additional comments on Article 1, it could be submitted to the Drafting Committee and opened the floor on Article 2 “Marks to Which the Treaty Applies”. He recalled that the Delegation of the Islamic Republic of Iran had announced that it would submit a proposal on that Article and asked the Delegation if it could indicate the specific issues to which the proposal would relate.

325. Mr. GHORBANI (Islamic Republic of Iran) said that his Delegation no longer had a difficulty with Article 2.

326. The CHAIR noted that, since there were no additional comments on Article 2, the provision could be submitted to the Drafting Committee. He then turned to Article 3 “Application” and recalled that, on this provision there were two proposals: one from the Delegation of Singapore, as stated in document TLT/R/DC/11 and another one from the Delegation of South Africa, as stated in document TLT/R/DC/15 and invited those delegations to present their proposals.

#### Article 3: Application

327. Ms. LIEW (Singapore) said that her proposal did not intend to introduce any substantive change in the Basic Proposal, but was merely intended to separate the elements contained in Article 3(1)(a)(x), so that it would be clear that Contracting Parties had the freedom to choose one, more or none of the elements listed.

328. Mrs. DAFAUCE MENÉNDEZ (Spain) suggested, if none of the other delegates objected, changing the particle “and” at the end of the fourth paragraph with the particle “or”. She considered that the paragraph drafted would be clearer in that form.

329. Ms. LIEW (Singapore) said that, in her understanding, the formulation did not have a conjunctive but a disjunctive effect. However, it would perhaps be preferable to submit the question of the use of “and” or “or” to the Drafting Committee.

330. Mr. ALEMU (Ethiopia) requested a clarification from the Delegation of Singapore as to the reasons behind the proposed amendment. In its comment, the Delegation of Singapore stated that the amendment would enable Contracting Parties to choose none, one or more of the elements or indications. But from reading the provision, as it stood now, it seemed that Contracting Parties would not be allowed to choose no element or indication, but at least one.

331. Ms. LIEW (Singapore) replied that the expression “some or all indications or elements” referred to the *chapeau* of the provision which read that “any Contracting Party may require that an application contain some or all of the following indications or elements”.

332. The CHAIR then asked the Delegation of South Africa to present its proposal.

333. Mr. STEMMET (South Africa) considered that in Article 3, the wording “notwithstanding paragraph (4)” should be added at the beginning of paragraph (5) concerning evidence, so as to establish a distinction between requirements and evidence. He understood the provision as meaning that no other requirements should be asked for, except where there is a need to provide evidence. He noted that the same type of construction appeared in Articles 10(5), 11(4), 12(4), 13(3) and 17(5). He further noted that the Committee could consider as a model the provisions contained in Article 8(3)(b) and (c). In the interest of progress, it was probably best to refer this matter to the Drafting Committee.

334. The CHAIR noted that there was consensus in the meeting to submit Article 3 to the Drafting Committee. He then adjourned the meeting.

Seventh Meeting Monday, March 20, 2006 Afternoon
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335. The CHAIR pointed out that Main Committee I had made good progress during the first week of the Diplomatic Conference. It had been possible to dispose of Articles 1, 2, 3, 7, 9, 10, 12 and 14 to 22, as well as Rules 1, 2, 4, 5 and 7. These provisions had been sent to the Drafting Committee. He recalled that, in accordance with Rule 13 of the Rules of Procedure, the Drafting Committee coordinated the drafting of all texts without altering their substance. The following provisions were still pending: Articles 4, 5, 6, 8, 11 and 13, and Rules 3, 6, 8, 9 and 10. He informed Main Committee I of his intention to clear the text to the largest extent possible by giving priority to those provisions and proposals which appeared to be less problematic before returning to those provisions that seemed more difficult and complex.

336. He drew the attention of Main Committee I to the proposal made by the Delegation of Benin on behalf of the Group of LDCs which had been reproduced in document TLT/R/DC/16. He underlined that the proposal indicated that the suggested text should become a new article and announced that the Delegation of Benin would introduce the proposal to the Committee.

337. Mr. AMOUSSOU (Benin), speaking on behalf of the LDCs, wished to make a quick summary of their concerns contained in the document made available to participants.

“New article to be inserted in the Revised Trademark Law Treaty – Proposal by the Delegation of Benin on behalf of the Group of LDCs

1. The least developed countries (LDCs), recognized as such by the United Nations, shall implement this Treaty and the Regulations thereunder, in accordance with their national development, financial and mark needs, and after acquiring the requisite financial, administrative and institutional capacities.

2. Developed countries will help the LDCs to develop the administrative and institutional capacities to implement the Treaty gradually.”

338. The Delegate of Benin concluded by saying that when the matters of substance were dealt with, a further explanation of their proposals would be given.

339. The CHAIR expressed his gratitude for the announcement of an explanatory Note concerning the proposal. He said that Main Committee I would continue the consideration of the proposal once the explanatory Note was available.

340. Mr. MTESA (Zambia) seconded the proposal made the Delegation of Benin on behalf of the Group of LDCs. He recalled that the United Nations had clearly recognized LDCs as a special category of States that needed special attention because of their numerous

inadequacies. He stated that the LDCs were most grateful to their development partners who were providing technical assistance and capacity building so that they could meet the Millennium Development Goals by the year 2015.

341. The Delegate stressed that a number of international organizations, including WIPO, were providing much-needed technical assistance and capacity building with the support of the development partners, and expressed gratitude for these programs. He explained that the proposal which the LDCs had put forward for insertion in the Revised TLT was in line with activities in all international organizations. In WIPO, the Development Agenda had been discussed. The IMF, the World Bank and the WTO were in the process of discussing Aid for Trade.

342. He was confident that the delegations at the Conference would not find it difficult to support the proposal by the Delegation of Benin which, if properly implemented, would contribute to the development of LDCs through technical assistance and capacity building programs. He believed that the best outcome of the Conference would be to make beautiful Singapore remembered as a place where the weak in society had not been forgotten but where efforts had been made to bring them along in today's technological era.

343. The Delegate indicated that Zambia did not delight in belonging to the Group of LDCs. It was the desire and aspiration of his country to leave the Group as soon as possible. He expressed the hope that the Conference would not impose unnecessary difficulties on LDCs.

344. Mr. AHMED (Bangladesh) expressed support for the proposal made by the Delegation of Benin on behalf of the Group of LDCs. He wished to reserve the right to contribute further to this proposal in the course of the future discussion.

345. Mrs. SÁNCHEZ TORRES (Cuba) said that her Delegation supported the proposal by the Delegation of Benin on behalf of the LDCs. She said that her Delegation considered it important that international IP treaties should include mechanisms to make application of the treaties flexible, taking into account the development level of countries and, in particular, of the LDCs.

346. Mr. GHORBANI (Islamic Republic of Iran) referred to the proposal made by the Delegation of Benin on behalf of the Group of LDCs. He saw the proposal as an indicator for the intention of the LDCs to play a role and engage in the negotiation process. He assumed that this was a constructive move. He was of the opinion that the LDCs also had a substantial concern, namely as to their national development needs. He understood from the text of the proposal that the LDCs did not want the Revised TLT to harm them now or in the future. In particular, the Treaty should not impose any further commitment on them. The Delegate said that, if this understanding of the proposal was correct, he was prepared to support the intention of the LDCs. He expressed the view that the issue should be accommodated by adopting appropriate treaty language.

347. Mrs. MTSHALI (South Africa) expressed support for the proposal made by the Delegation of Benin on behalf of the Group of LDCs. He pointed out that South Africa supported the aim of the LDCs to enter the mainstream and probably adopt the Revised TLT once they were ready to take this step. He felt that it was necessary to take into account the fact that the Revised TLT might not offer much breathing space for the implementation of

policy objectives. He indicated the intention to broaden paragraph (2) of the proposal so as to include developing countries and reserved the right to elaborate further on this issue in the course of the future discussion of the proposal.

348. The CHAIR pointed out that Main Committee I would have the opportunity to continue the discussion of the proposal at a later stage and that every delegation would be offered the opportunity to contribute to that discussion.

349. Mr. AYALOGU (Nigeria) expressed the support of his Delegation and the Group of African countries for the proposal made by the Delegation of Benin on behalf of the Group of LDCs. He announced that he would make further observations on this proposal once the full discussion on the issue would be opened.

350. Mr. YACOUBA KAFFA (OAPI) said that since the discussion was closed regarding the proposal made by Benin, he wished to come back to the provisions of the TLT and in particular Article 13(c)(i), on which OAPI had submitted a written proposal. He said that informal consultations had been held with the Delegation of Switzerland and the Secretariat of the International Bureau, and that they had come to an understanding that OAPI's concerns could be mitigated if Rule 8 were slightly amended. For that reason, they had made an informal proposal to reword Rule 8 completely, which would be drafted as follows "any Contracting Party may subject the acceptance of the request for renewal to the payment of a surcharge". The OAPI Delegate said that there would therefore be no difficulty of interpretation and that the provision would comply completely with their law which was also the law of the OAPI Member States. He added that if the proposal were supported, he would file a written proposal and withdraw his proposal to amend Article 13(c)(i).

351. The CHAIR wondered whether his understanding was correct that the Delegation of OAPI withdrew its proposal concerning Article 13 and sought to make additions to Rule 8 instead. He said that the changes to Rule 8 would leave the first sentence of the provision untouched. The second sentence of Rule 8 should read: "[i]f the request for renewal is presented and/or the renewal fees are paid after the date on which the renewal is due, any Contracting Party may subject the acceptance of the request for renewal to the payment of a surcharge." He wondered whether Main Committee I could accept this change to Rule 8 as a countermove to the withdrawal of the proposal by the Delegation of OAPI.

352. Mr. YACOUBA KAFFA (OAPI) said that after listening to the French interpretation of the Chair's statement, he wished to specify that the Rule should read "any Contracting Party may subject the acceptance of the request for renewal to the payment of a surcharge". He said it was only a question of semantics but that he was keen for that to be specified, given that the French interpretation did not appear to be completely correct.

353. The CHAIR thanked the Delegation of OAPI for its efforts and informal consultations. He concluded that Rule 8 could be sent to the Drafting Committee in order to include the change proposed by the Delegation of OAPI.

#### Article 4: Representation; Address for Service

354. The CHAIR turned to Article 4. He pointed out that two proposals had been submitted with regard to this provision.

355. Mr. HÖPPERGER (WIPO) informed Main Committee I that the Delegation of China had submitted a proposal that was reproduced in document TLT/R/DC/10. The second proposal made by the Delegation of South Africa was to be found in document TLT/R/DC/15.

356. The CHAIR first turned to the proposal by the Delegation of China, because it concerned the first paragraph of Article 4.

357. Mrs. HOU (China) explained that the proposal made by the Delegation of China aimed to introduce a new item (i) in Article 4(1)(a). The new item concerned the admission of a representative to practice before the Office. The Delegate informed Main Committee I that China was in the process of revision of Regulations on Trademark Representation. The adoption of the Revised TLT would provide a basis for the continuation of the legislative work presently undertaken in China. She indicated that the proposal made by her Delegation sought to enhance the standard of the quality of trademark representatives which was a matter of particular importance to her country. In 2005, the Office of China had processed 660,000 trademark applications. About 80 percent of these applications were presented through agents. One sixth of the applications were of foreign origin.

358. The Delegate stressed that the quality of trademark representatives strongly influenced the efficiency of Office procedures. In the interest of foreign and domestic applicants alike, certain quality requirements had to be established with regard to representation before the Office in order to ensure the professional handling of administrative procedures. She believed that the introduction of the proposed new item (i) was in line with the main principles underlying the Revised TLT and would serve the interests of applicants.

359. Mrs. KIRIY (Russian Federation) pointed out that the wording of Article 4(1)(a)(i) fully corresponded to the wording of Article 7(1)(a)(i) of the Patent Law Treaty. It appeared to her that the proposal by the Delegation of China, if adopted, would narrow the circle of persons having the right to be a representative before the Office. She failed to see sufficient reasons for this. The problems and issues to be resolved by representatives in respect of patents were not less complex than in the case of trademarks, and required the same degree of knowledge and experience. In the Russian Federation, experts in the field of law would not automatically be granted the right to act as representatives before the Office. At the same time, there were experts who had practical experience in the judicial defense of rights. In her view, these specialists could be permitted to be representatives before the Office without requiring some special certificate or accreditation which the proposal by the Delegation of China seemed to imply. For this reason, she expressed support for retaining Article 4(1)(a)(i) as presented in the Basic Proposal.

360. Mrs. MENJIVAR CORTÉS (El Salvador) said that her Delegation considered that Article 4(1)(a)(i) should be maintained as it stood for the reasons that she would outline briefly. She added that her Delegation welcomed the effort made to present the proposal by the Delegation of China, the distinguished Delegate of which had explained the reasons for which she had made it. However, in the case of El Salvador, she specified that the relevant applicable legislation was not necessarily legislation in the area of trademark or industrial property law, but other legislation that also governed the subject, such as the Notarial Law Act in certain cases. Similarly, she pointed out that the Code of Civil Procedure could also be applied directly in that area. She therefore said that her Delegation considered that the wording indicated, i.e. “under the applicable law”, was appropriate for El Salvador.



361. Mr. WARDLE (New Zealand) expressed the view that the present wording of Article 4, as contained in the Basic Proposal, was sufficient to fulfill the needs of China. He saw no need to amend the provision. The new item (i) proposed by the Delegation of China would impose the obligation on a State or intergovernmental organization to first regulate the admission to practice before its Office before becoming party to the Revised TLT. Referring to his earlier intervention, he recalled that trademark agents were not regulated in New Zealand. Experience in New Zealand showed that only patent attorneys and practicing lawyers represented trademark owners in trademark proceedings. For this reason, he failed to see any need to specifically regulate the trademark attorney's profession. He stated that he could not support the proposal by the Delegation of China.

362. Mrs. TOTIĆ (Serbia and Montenegro) said that she preferred keeping Article 4 as it was presented in the Basic Proposal. In her view, Article 4(1)(a)(i) of the Basic Proposal already included the substance of the additional item (i) proposed by the Delegation of China. If someone had the right, under the applicable law, to practice before the Office in respect of applications or registrations, this person necessarily had to be admitted to practice before the Office. In Serbia and Montenegro, only lawyers had the right under the trademark law to practice before the Office in respect of trademark applications. A patent attorney who was admitted to practice before the Office had no right to practice in trademark cases if he was not a lawyer. The Delegate wondered about the need to expressly mention the requirement of admission in a new Article 4(1)(a)(i). It seemed to her that this was unnecessary.

363. Mr. BAOLIN (CTA) felt that the Delegation of Serbia and Montenegro, the Delegation of the Russian Federation and the Delegation of New Zealand had made good suggestions on the basis of their experience as to the qualifications of trademark representatives. Usually, these representatives had to be lawyers and well versed in legal affairs. They also had to obtain the permission of the judicial departments in which they practiced. This guarantees the quality and efficiency of the work of trademark authorities and further protects interests of trademark applicants and holders. The Representative pointed out that the situation in China was entirely different because there were no qualification requirements in the sense of a legal requirement for trademark representatives. China was still undergoing the process of drafting a law with respect to the issue of representation. Those representatives who were qualified to practice as lawyers and well-versed in the field of trademarks constituted only a very small percentage of the entire group of lawyers.

364. The CHAIR thanked the Representative of CTA for his explanation of the situation in China. He pointed out that several delegations had expressed the view that the result of the present wording of Article 4(1)(a)(i), as contained in the Basic Proposal, would be the application of Chinese Law to the question of representation. National legislation in China was free to specify the circumstances under which somebody had the right to practice before the Office in respect of applications and registrations. The admission to practice would totally depend on the applicable law in China. As no delegation had seconded the proposal by the Delegation of China, he wondered whether the Delegation of China would be prepared to withdraw its proposal in view of the general feeling within Main Committee I that the present text of Article 4(1)(a)(i) already accommodated the concern expressed by the Delegation of China.

365. Mrs. HOU (China) said that her Delegation would submit a new, amended proposal with regard to the question of the admission to practice before the Office in Article 4(1)(a)(i).

366. The CHAIR turned to the proposal by the Delegation of South Africa which concerned Article 4(3)(d) and was reproduced in document TLT/R/DC/15.

367. Ms. SUNKER (South Africa) explained that the proposal made by her Delegation consisted in adding the word “herself” after “himself” at the beginning of the second line of Article 4(3)(d) in order to be correct as regards gender. The same approach should be followed consistently throughout the text of the Basic Proposal.

368. Mr. CARLSON (Sweden) expressed support for the proposal by the Delegation of South Africa. He said that the approach outlined in the proposal should not only be followed in the context of the Revised TLT but also with regard to future treaties.

369. Mr. RAGAB (Egypt) stressed that, in his country, a woman would not be excluded from practicing because of the language presently found in Article 4(3)(d) of the Basic Proposal.

370. Mr. WARDLE (New Zealand) recalled that discussions on the issue of including both “him” and “her” in the SCT had shown that the approach proposed by the Delegation of South Africa with regard to the English text may give rise to translation difficulties.

371. Mr. PARKES (FICPI) pointed out that the “person” to which the word “himself” related in Article 4(3)(d) could be an individual but also a legal entity pursuant to the definition given in Article 1(v).

372. The CHAIR said that the discussion of the proposal by the Delegation of South Africa clearly pointed towards a gender mainstreaming perspective. He wondered whether Main Committee I would be comfortable to send the issue to the Drafting Committee to ensure consistency throughout the text in this respect.

373. Ms. SUNKER (South Africa) supported the suggestion of sending the proposal to the Drafting Committee. She underlined that gender neutrality was an important issue. She wondered what it would mean to be challenged before a court on the grounds that a provision regulating representation before the Office referred only to men.

374. The CHAIR concluded that there was agreement on sending the proposal made by the Delegation of South Africa with regard to Article 4(3)(d) to the Drafting Committee.

### Rule 3: Details Concerning the Application

375. The CHAIR turned to the proposal by the Delegation of the Islamic Republic of Iran concerning Rule 3(4)(b) which was reproduced in document TLT/R/DC/19. He explained that the proposal consisted in the deletion of the words “at the option of the applicant” in Rule 3(4)(b).

376. Mr. GHORBANI (Islamic Republic of Iran) expressed the view that the Office should determine the different necessary views of the mark. The holder of the mark may make a choice which did not satisfy the Office.

377. Ms. SCHMIDT (Germany) invited the Delegation of the Islamic Republic of Iran to rethink its proposal. She pointed out that often one view of the mark was sufficient but sometimes different views were necessary. If the views provided by the applicant were insufficient, the Office could demand further indications, such as additional views of the mark.

378. Mr. ARBLASTER (Australia) said that, in Australia, the applicant had the freedom to decide on the views of the mark. The experience in Australia with this approach had been positive. He confirmed that the Office could request more views in case it was not satisfied with the indications given by the applicant.

379. Mr. GHORBANI (Islamic Republic of Iran) stated that, in a spirit of flexibility, his Delegation withdrew the proposal concerning Rule 3(4)(b).

380. The CHAIR concluded that Rule 3 could be sent to the Drafting Committee.

[Suspension]

#### Article 5: Filing Date

381. The CHAIR turned to Article 5. He drew the attention of Main Committee I to the proposal made by the Delegation of the Islamic Republic of Iran with regard to the words “or implicit” in Article 5(1)(a)(i). The proposal was reproduced in document TLT/R/DC/19.

382. Ms. SCHMIDT (Germany) supported the present wording of Article 5(1)(a)(i) to be found in the Basic Proposal. The acceptance of an implicit indication that the registration of a mark was sought was advantageous for the applicant. She did not see any disadvantages on the side of the Office and sought further clarification on the proposal.

383. Mr. GHORBANI (Islamic Republic of Iran) said that the acceptance of implicit indications would cause vagueness and insecurity. He gave the example of a situation in which the applicant simply called the Office in order to express his wish to register a mark.

384. Mr. SHORTHOUSE (United Kingdom) said that the inclusion of the word “implicit” was particularly useful with regard to less experienced users of the application system. He gave the example of an applicant who wrote to the Office and requested to “patent the name” of his or her company. In such a case, the Office of the United Kingdom would take that as being an indication that the applicant wished to seek a trademark. The Delegate believed that this practice might not fall within the definition proposed by the Delegation of the Islamic Republic of Iran. For this reason, he expressed his concern over the proposal.

385. The CHAIR indicated that it may be harsh to exclude an applicant if the wish to apply for a trademark registration clearly transpired from what he submitted to the Office.

386. Mr. PIAGET (Switzerland) said that he was entirely convinced by the example that had been given by the Delegation of the United Kingdom. He considered that if the phrase “or implicit” were deleted from the Basic Proposal, that would amount to saying that even if the

owner satisfied all the conditions mentioned in the paragraph, or that from all the circumstances it could be deduced that a request was being made, that would mean that the Office could not assign a filing date simply owing to the fact that the word “request” or “application” was not expressly mentioned in the owner’s application. He was of the opinion that the condition was extremely formalistic and that it was not only contrary to the interests of users, but it was also very probably contrary to the interests of offices that on each occasion had to verify formally whether the word “application” or “request” were expressly mentioned as part of the application. For that reason, he said that his Delegation supported the position expressed clearly by the Delegation of the United Kingdom.

387. Mr. AHLGREN (Sweden) expressed support for earlier interventions in favor of the present wording of Article 5(1)(a)(i) to be found in the Basic Proposal. He said that, if anything, he could agree on deleting the words “express or implicit” altogether.

388. Mr. GHORBANI (Islamic Republic of Iran) wondered about a situation in which the Office would receive only the indications reflected in Article 5(1)(a)(i) and (iii) and would seek to clarify the situation on the telephone.

389. The CHAIR pointed out that an Office was free to require all six indications listed in Article 5(1)(a).

390. Mr. KHAN (Pakistan) underlined the importance of obtaining a filing date also in countries in which rights in a trademark could be acquired by use. He said that the word “implicit” in Article 5(1)(a)(i) implied some discretion for the Office. It was in the interest of the applicant to make an express statement. This would enhance security in favor of the applicant.

391. Mr. REQUENA (France) said that as with the delegations that had preceded him, in particular the Delegations of Switzerland and Sweden, his Delegation was also in favor of retaining the term “implicit” which already appeared in the 1994 version. In actual fact, in the field of trademark filings, he said that experience showed that the matters affected a population which was not always completely familiar with IP law and which sometimes used wording that did not correspond exactly to the terms that a specialist would have chosen. Whatever the case might be, he recalled that there were the other provisions included in Article 5(1)(a), in particular the indication of a mark, a sign, or the indication of a list of goods or services. Consequently, he considered that a series of elements existed which generally speaking allowed it to be deduced quite easily that a mark was being applied for. If a firm applied for a patent for its name by indicating a sign, a list of goods, etc., he thought that it could be deduced quite easily that in reality what was being sought in terms of protection was a trademark. That appeared to be implicit to him and so he was of the opinion that the original version should be preserved.

392. The CHAIR pointed out that, so far, no delegation had given an example of difficulties which it had experienced with regard to the acceptance of implicit statements.

393. Mr. ARBLASTER (Australia) pointed out that the Office in Australia had worked with the language used in the Basic Proposal for about 10 years. Even though Australia had a very high level of people who were not represented before the Office, the national experience in Australia had not shown any difficulties with the acceptance of implicit indications. He

encouraged countries which were developing their systems also to allow private individuals and companies to represent themselves before the Office because, in the experience of Australia, that had been very successful. Often people seeking a trademark simply did not know to use the correct technical terms. In his view, these people should not be deprived of rights simply because they did not manage to find the right words. He therefore expressed support for the wording to be found in the Basic Proposal which included implicit indications.

394. Mr. RAGAB (Egypt) held the view that, in the normal course of events, an application contained an express indication of the wish to apply for the registration of a mark. Sometimes, however, misleading words were used by the applicant, such as the words “patent a trademark”. In these cases it may be difficult to clarify whether the applicant sought the registration of a mark. However, general requirements remained, such as the payment of the required fee. The Delegate said that it might be considered to omit both the term “express” and the term “implicit”. In consequence, a general requirement to indicate the wish to register a mark remained. It would also be possible to keep Article 5(1)(a)(i) as presented in the Basic Proposal.

395. The CHAIR felt that there was broad support for the text contained in the Basic Proposal. He saw little need for a change. He said that, for the time being, he wished to leave open the issue raised by the Delegation of the Islamic Republic of Iran. He drew the attention of Main Committee I to the proposal made by the Delegation of South Africa with regard to Article 5(2)(a) which was reproduced in document TLT/R/DC/15.

396. Ms. SUNKER (South Africa) explained that, frequently, there was a difference between the date on which the payment was made and the date on which the money was finally received by the Office. Her Delegation preferred to refer to the date on which the required fees were finally received by the Office.

397. Mr. HÖPPERGER (WIPO) recalled that the system established by the Revised TLT should be user-friendly. The requirement that fees had to be received by the Office was stricter for the applicant. Particularly at the end of a time limit, it may be essential to satisfy payment requirements promptly. The Office had the possibility to trace back payments it received to the day of the bank transfer instead of only checking whether it finally received the fee.

398. Mr. ARBLASTER (Australia) gave the example of a check. When this mode of payment was used, the money was already paid to the Office but not yet received because the bank transfer had to be made first.

399. Mr. WARDLE (New Zealand) expressed a preference for the word “paid” for the reasons explained by the honorable Delegate from Australia. In his view, it was necessary to be sure that the money had been paid. The acceptance of, for example, a personal check carries the risk that the check may not be honored by the person’s bank and, therefore, the fee would not be paid.

400. Mr. KHAN (Pakistan) wondered how somebody could be said to have paid the fees before the Office received the money. He therefore was of the opinion that the word “received” should be used in Article 5(2)(a).

401. Ms. BERESFORD (United States of America) stressed that the language used in the Basic Proposal stemmed from the TLT. In her view, it was much more advantageous for the applicant to require payment instead of receipt, particularly on the last day of the priority period.

402. Mr. AYALOGU (Nigeria) expressed his concern about payment modalities which implied money transfers. He proposed to combine the text in the Basic Proposal with the proposal by the Delegation of South Africa and adopt the wording “until the required fees are paid and received”.

403. The CHAIR said that the proposal made by the Delegation of the Islamic Republic of Iran with regard to the word “implicit” in Article 5(1)(a)(i) had not received sufficient support from the Committee. He felt that, similarly, the proposal by the Delegation of South Africa to use the word “received” in Article 5(2)(a) had not received substantial support. He therefore wondered whether the text of the Basic Proposal could be retained.

404. Mr. GHORBANI (Islamic Republic of Iran) indicated that further internal consultations would be necessary before proceeding further on the issue of the acceptance of implicit statements under Article 5(1)(a)(i).

405. Mr. BISEREKO (Uganda) stressed that there was a fundamental difference between the term “paid” and the term “received”. He supported use of the word “paid” as contained in the Basic Proposal.

406. Mr. OMOROV (Kyrgyzstan) said that, in view of the discussion on different payment modalities, Article 5(2)(a) should be kept as presented in the Basic Proposal. As to the question of including implicit statements under Article 5(1)(a)(i), he expressed support for the suggestion by the Delegation of Egypt to delete both the term “express” and the term “implicit”. It should be sufficient that the applicant asked for the registration of a mark.

407. The CHAIR concluded that the word “paid” in Article 5(2)(a) would be retained. The consideration of the proposal made by the Delegation of the Islamic Republic of Iran would continue once the Delegation had had the opportunity to finalize its internal consultations.

408. The CHAIR adjourned the meeting.

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#### Article 13: Duration and Renewal of Registration

409. The CHAIR suggested to deal with the proposal made by the Delegation of the Islamic Republic of Iran on Article 13(2), as stated in document TLT/R/DC/19.

410. Mr. GHORBANI (Islamic Republic of Iran) said that his proposal consisted on making item (i) optional or deleting it. He believed that any reproduction or other identification of the mark could be required under national law. This idea was supported by paragraph (3) which required that evidence be furnished to the Office in case of reasonable doubt.

411. Ms. BERESFORD (United States of America) clarified that the purpose of the provision was to make absolutely clear that as part of the renewal process, a reproduction or copies of the mark could not be required. She believed that this provision had posed no particular problem for countries that were members of the TLT. And indeed, the fact that the minimum requirements for renewal allowed a country to require that the application or registration number be identified seemed to be sufficient for purposes of a maximum list of requirements at the time of renewal. She believed that this explicit provision saying that no reproduction of the mark could be required was one that addressed some problems in the renewal processes of some countries.

412. Mr. PARKES (FICPI) supported the views expressed by the Delegation of the United States of America and said that from a user's point of view, it would certainly be a step backwards if removal of this phrase was to create the impression that a reproduction of the mark could be required at renewal. Presently, many renewal systems operated by the use of data-processing systems and that is part of the modern way of handling trademarks matters. This facilitated the system in countries around the world and it would certainly be undesirable if the Conference took a step backwards in that respect. He expressed his preference to maintain the phrase. He suggested that the Drafting Committee look at the question of replacing the word, "reproduction" by "representation" in this particular sub-paragraph.

413. Ms. VENIŠNIK (Slovenia) said that her Delegation also wished the text to be maintained as it was and added that the Delegation was of the opinion that deleting the paragraph would be a step backwards. By way of example, she said that it sometimes happened that the Slovenian Office received reproductions at the time of renewal by the owners of marks without their being asked to provide such reproductions. The Office therefore sometimes experienced great difficulties because owners sent them a completely different mark, or also owners that had a series of marks did not have good archives, or also they were unsure which mark had expired. She added that in those cases it was necessary to contact the owners and that took time.

414. Mr. REQUENA (France) said that his Delegation was in favor of keeping the text as it stood. He added that, as other delegations that had spoken before him, it would be a step backwards to return to the provision and to allow an office to demand a reproduction from a person who simply wished to renew his/her mark. He said that in the case of France, the mark number was sufficient to identify it and that the reproduction added strictly nothing, or even caused confusion, as emphasized by the Delegation of Slovenia. In conclusion, he said once again that his Delegation was in favor of retaining the provision.

415. Mr. RAGAB (Egypt) considered that this matter should be discussed in connection with Article 8 because there was a close connection between the two provisions.

416. Mr. CARLSON (Sweden) supported the views expressed by the Delegations of France, Slovenia, the United States of America and the Representative of FICPI.

417. Mr. PIAGET (Switzerland) said that, as had been expressed by several delegations, in particular those of Sweden, France and Slovenia, and finally the Representative of FICPI, he was of the opinion that the provision should be retained within the Treaty framework. He emphasized that the Office satisfied all the conditions necessary to define the subject of the request precisely. It could also request all the provisions of Article 13(1)(a), and it was thus able to have all the clarification it required so there was no doubt as to the subject of the request. In conclusion, he said that he was of the opinion that the provision in question should be preserved in the Revised Treaty.

418. Ms. MORGADO (Brazil) expressed the view that in some countries like Brazil, the trademark files were not scanned and the reproductions of the marks were of very poor quality. On the occasion of renewal, the Office could collect a better copy or reproduction of the mark.

419. The CHAIR noted that for the purposes of renewal, it seemed sufficient to indicate the registration number.

420. Mr. ARBLASTER (Australia) said that the provision under consideration would not prevent the Office in Brazil from requiring a better copy of the reproduction at any other time. The Treaty only said that a reproduction may not be required as a pre-requisite for renewal. It was in the interest of the Office and of the users to have a clear reproduction. In addition, he noted that the provision prevented the renewal from hanging on the reproduction of the mark and said that he supported retaining the provision.

421. The CHAIR noted that there had not been substantial support for the proposal made by the Delegation of the Islamic Republic of Iran. A very large number of delegations had expressed that the text of the Basic Proposal, which was identical to the TLT 1994 should not be changed.

422. Mr. GHORBANI (Islamic Republic of Iran) said that he respected the position of developed country offices, which had good trademark office files. However, in the Islamic Republic of Iran, the Office required the reproduction upon renewal. He asked to keep the discussion open until the arrival of other members of his Delegation.

423. The CHAIR noted that this Article could be considered as dealt with and could be sent to the Drafting Committee, it being understood that the discussion could continue once the Delegation of the Islamic Republic of Iran was complete.

#### Rule 9: Relief Measures in Case of Failure to Comply with Time Limits

424. The CHAIR then turned to Rule 9 and recalled that a proposal had been submitted by the Delegation of New Zealand in relation to paragraphs (1) to (3), and a further proposal had been submitted by the Delegation of Japan, in relation to paragraph (4).

425. Mr. WARDLE (New Zealand) said that his Delegation proposed to amend paragraphs (1)(i), (2)(i) and (3)(i). He explained that each of those sub-paragraphs provided that a Contracting Party may require that the request for relief contain only an identification of the requesting party and the time limit concerned. The amendment proposed by the Delegation of New Zealand was designed to tighten the language and clarify what a



Contracting Party may require; in particular, giving more information on the relevant application or registration number to which the request related. It was also relevant to identify the name. He noted, that other provisions in the TLT, such as the request for correction of a mistake (Article 12), change of address (Article 10), change of ownership (Article 11), and recordal of a license (Article 17) all provided that the Contracting Party could require the requesting party to identify the application or registration number in question, the name and address of the requesting party and the name and address of any representatives.

426. Ms. SCHMIDT (Germany) said that the practice in her Office was to identify most requests with their identification number. She noted that the other elements proposed by the Delegation of New Zealand might not be necessary.

427. Mr. REQUENA (France) said that the proposal made by the Delegation of New Zealand was in principle to his liking. He said that the elements indicated would appear to facilitate the identification of the application for which a request for relief was made and therefore facilitate the processing of such an application within a fairly short space of time. He therefore made it known that his Delegation would support the request.

428. Mr. AHLGREN (Sweden) supported the views expressed by the Delegations of France and Germany. He noted that, for the sake of clarity, it was justified to require the application and registration number. However, any additional requirements might be burdensome.

429. Mr. KHAN (Pakistan) held the view that the wording of the provision “identification of the requesting party” was sufficient because the identification could not be done without the number, the name and address of the applicant. He was nevertheless ready to discuss the wording proposed by the Delegation of New Zealand.

430. Ms. BERESFORD (United States of America) concurred with the views expressed by the Delegation of Pakistan and supported the proposal to require the identification number only.

431. Mr. ULLRICH (Austria) believed that if the Office required the identification of the requesting party and the identification of the time limit concerned, this information would cover the registration number or address. He expressed sympathy for the proposal made by the Delegation of New Zealand because its formulation was clear and flexible and also associated himself with the positions of Germany and the United States of America.

432. Mr. WARDLE (New Zealand) said that following the proposal made by the Delegation of Germany, he could propose to tighten the language of his proposal to read that a Contracting Party may require the request to “specify the application or registration number concerned”.

433. The CHAIR concluded that there was consensus that the office should require the registration or application number only and to send this part of the proposal to the Drafting Committee. He then asked the Delegation of Japan to present its proposal.

434. Mr. TASHIRO (Japan) explained the proposal by the Delegation of Japan, as contained in document TLT/R/DC/13. He said that the proposal consisted in including a reference to Article 14 as a whole in Rule 9(4)(i) in order to exclude the possibility of double relief. He noted the difference between the optional relief in paragraph (1) and the mandatory relief in paragraph (2). He also noted that the meaning of this Article was that the Contracting Party provided at least one measure in paragraph (2) in case of the failure to comply with the time limit. He added that although they agreed on this idea, it was difficult to understand why Article 14 required double relief. He mentioned that according to the Basic Proposal, even the case where the Contracting Party already had allowed a relief measure under paragraph (1), the Contracting Parties were required to grant another relief measure under paragraph (2). He also mentioned that in the last session of the SCT, many delegations had not considered the situation as double relief. The Delegation believed, when we think of the matter of double relief, the Office should take into account whether or not, the relief measure had already been accorded as stipulated in paragraph (1). He mentioned that some countries provided for long periods of relief if the measure was requested before the expiry of the time limit. He also mentioned that Rule 12(5) of the Patent Law Treaty (PLT) excluded the possibility to grant additional relief, regardless of whether or not the request was filed before the expiry of the time limit. Therefore, it was necessary to change the reference in Rule 9(4)(i) to cover the whole of Article 14.

435. Mr. ARBLASTER (Australia) and Mr. WARDLE (New Zealand) supported the proposal made by the Delegation of Japan, to the effect that no double relief should be granted.

436. Mr. PARKES (FICPI) said that, from the user's point of view, the situation considered in Article 14(1) and in Rule 9(4) did not amount to double relief. Article 14(1) dealt with a request made prior to the expiry of the time limit and a routine extension of time recognized in many countries. He considered that obtaining that extension of time was a fairly straight-forward procedure that effectively set a new due date for the action which was required.

437. He noted that Article 14(2) dealt with a different category of measures which were the relief measures after the expiry of a time limit. The principle behind these provisions was that one of those options should be available to the requesting party if there was some event which caused the time limit to be missed. So, this was relief available in an emergency situation, which did not constitute double relief because the date had already lapsed. He considered that, if the proposal by the Delegation of Japan was accepted, where a routine extension had already been granted and due to an emergency, the extended date was missed, none of the three options under Article 14(2) would be available. He believed that, from a user's point of view, it would be regrettable if the amendment suggested by the Delegation of Japan were accepted.

438. Mr. CARLSON (Sweden) associated himself with the comments made by the Representative of FICPI. The amendment proposed would indeed have the effect described by the Representative.

[Suspension]

Rule 9: Relief Measures in Case of Failure to Comply with Time Limits

439. Mr. WAKIMOTO (Japan) said that he took note of comments from several delegations that the users' needs were duly taken care of and added that he shared these views in a sense, but he pointed out that we should also recognize that users can be divided into two categories. He explained that there were some applicants who made filings in the first place and many other applicants who wanted similar marks to be registered but filed at a later date. He had sympathy with the concerns of the latter type of user concerning double relief, because later applications were not processed until preceding applications had been examined. This Delegation believed that the balance of interests between these different types of users should be duly taken into consideration.

440. The CHAIR returned to the consideration of the proposal made by the Delegation of Japan with regard to Rule 9(4)(i).

441. Mr. REQUENA (France) thanked the Delegation of Japan for its additional explanations and said that he understood the motivation behind the proposal which was mainly to avoid the proceedings being unduly long when relief measures had already been granted. However, for the reasons expressed by the FICPI Delegate, he said that he could not support the proposal. He considered that there was an essential difference between the relief measures according to whether they were granted before or after the expiry of the time limit. Very often a firm which was in a situation of disorganization could not obtain a relief measure quickly. At a push, it could obtain an extension of a time limit but could not obtain an extension after the time limit. It was therefore necessary to have the possibility to reinstate rights. He said that in France for example, it was quite often possible to obtain an extension of the time limit if that were requested before the time limit, which in general was quite short (i.e. two months), expired. He added that if during the extension the firm found itself in a serious situation of disorganization and it missed the new extended time limit, he was of the opinion that it would be quite normal, if it were so justified, for the firm to benefit from a measure to restore rights. Consequently, he considered that the two mechanisms should be retained and that the simple fact that a relief measure prior to expiry of the time limit was provided for should not prevent recourse to restoration measures after the time limit had expired. In conclusion, he said that his Delegation did not support the proposal by Japan.

442. Mr. PIAGET (Switzerland) said that the Delegation of Switzerland understood perfectly the concerns and the origin of the proposal by the Delegation of Japan. However, he was convinced by the explanations that had been given by France and by the Delegate of FICPI. Furthermore, he wished to highlight a problem concerning the actual structure of Article 14 which the proposal by the Delegation of Japan might cause. He specified that the system of Article 14 consisted in obliging Contracting Parties to provide for at least one measure from among the three listed in Article 14(2), or at least one measure after the deadline had expired. He noted that Article 14(1) was not binding in nature but that its sole aim was to remind States which provided a relief measure before the time limit expired that their rights and practices were not affected by the Article. He therefore said that incorporating Article 14(1) in the subheading to Rule 9(4) would therefore have the following effect: a Contracting Party could not grant any relief measure after the deadline had expired if a measure had already been granted before the time limit had expired. In other words, Article 14(1), which consisted, however, of a simple reminder, would allow Contracting Parties not to provide for any of the measures in Article 14(2), whereas that Article precisely obliged them to provide

for at least one relief measure. The Delegate said that he hoped he had explained the structural problem, which might be faced by moving in the direction mapped out by the Delegation of Japan, in sufficiently clear terms.

443. The CHAIR recalled that Main Committee I had already approved the structure of Article 14. He pointed out that the provision was presently under consideration in the Drafting Committee. He underlined that Article 14(1) concerned the situation before the expiry of a time limit. If a Contracting Party adopted the optional relief measure outlined in Article 14(1), then this Contracting Party would still be obliged to implement one of the mandatory options enumerated in Article 14(2). It was his understanding that the Delegation of Japan sought to introduce an exception to the application of Article 14(2).

444. Ms. ASPERGER (Austria) expressed a preference for the present wording of Rule 9 as contained in the Basic Proposal.

445. Mrs. COLEMAN-DUNNE (Ireland) said that she appreciated the intervention by the Delegation of Japan. Nevertheless, she felt that the proposal by the Delegation of Japan would bring about a substantial change. For this reason, she was in favor of the text contained in the Basic Proposal. The option outlined in Article 14(1) was independent of the options described in Article 14(2). In her view, the option before the expiry of a time limit and the set of options after the expiry of a time limit should be viewed individually.

446. Mrs. ROAD D'IMPERIO (Uruguay) said that her Delegation also wished to make clear its appreciation of the concerns expressed by the Delegation of Japan but she considered that Article 14 and Rule 9(4), as they were worded, were correct. She said that her Delegation had had the chance to attend SCT meetings that were very complex in relation to the matter and she shared the view expressed by the Delegate of FICPI. She also said that the structure of Article 14 was different in paragraphs (1) and (2). In fact, paragraph (1) related to relief measures prior to the expiry of a time limit that was optional for Contracting Parties, whereas Article 14(2) referred to relief measures once the deadline had expired and provided legislative obligations for Contracting Parties. She emphasized that the Spanish text stated "shall provide for one or more of the following relief measures". For that reason, she considered that if Rule 9(4) applied to the whole of Article 14 and not only to 14(2), that would give the possibility of applying paragraph (1), and the Contracting Party would not have to provide for any of the measures referred to in Article 2. In conclusion, she said that the proposal as it stood was correct in the opinion of her Delegation.

447. Mrs. VESTERGAARD (Denmark) said that she understood the concern expressed by the Delegation of Japan. She pointed out that Article 14(2) was of particular importance to the users of the trademark system. This had clearly been shown by a questionnaire which Denmark had distributed among users. For this reason, she supported the wording of Rule 9 to be found in the Basic Proposal.

448. Mr. SHORTHOUSE (United Kingdom) expressed support for the intervention by the Delegation of Uruguay. He thanked the Delegation of Japan for discussing the matter with members of his Delegation during the break.

449. Mr. RAGAB (Egypt) said that he fully supported the retention of the original text in the Basic Proposal.

450. Mrs. MINOR (European Community) said that her Delegation preferred the text in Rule 9 to be maintained as it was currently drafted for the reasons expressed in particular by FICPI, and the Delegations of Switzerland, France and Uruguay.

451. Mr. TOPIĆ (Croatia) said that, even though appreciating the proposal by the Delegation of Japan, he wished to support the text in the Basic Proposal.

452. Mrs. CLETO (Portugal) expressed support for the text of Rule 9 in the Basic Proposal.

453. Mr. RICHARDS (AIPLA) said that, even though sympathizing with the proposal by the Delegation of Japan, he lent his support to the position taken by the Representative of FICPI and the retention of the original text in the Basic Proposal.

454. Mr. WAKIMOTO (Japan) recognized that there was a majority within Main Committee I which was in favor of the text of the Basic Proposal. He emphasized that international cooperation was of particular importance to Japan. He said that, therefore, he would withdraw the proposal made by the Delegation of Japan with regard to Rule 9(4)(i).

455. The CHAIR thanked the Delegation of Japan for its cooperation.

456. Mr. ARBLASTER (Australia) recalled that his Delegation had seconded the proposal made by the Delegation of Japan. He indicated that he would like to keep open the possibility of further proposals.

457. Mr. WARDLE (New Zealand) said that his Delegation had also supported the proposal by the Delegation of Japan. He stated that he accepted the consensus on keeping the text of the Basic Proposal.

458. The CHAIR adjourned the meeting.

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459. The CHAIR pointed out that Main Committee I had made good progress with respect to the rules but there were still several articles pending, namely Articles 4, 5, 6, 8 and 11.

Article 4: Representation; Address for Service

460. He drew the attention of Main Committee I to document TLT/R/DC/10 which contained a proposal relating to Article 4(1)(a) made by the Delegation of China. He recalled that this proposal had already been under consideration in Main Committee I. On the basis of the discussion in the Committee, interested delegations had consulted with each other to present a compromise solution to Main Committee I.

461. Mr. HÖPPERGER (WIPO) explained that, following the introduction of proposal TLT/R/DC/10 by the Delegation of China and the subsequent debate in Main Committee I, a number of interested delegations had engaged in informal consultations to come up with a compromise proposal. The wording that resulted from these consultations concerned Article 4(1)(a)(i) and referred likewise to the right of a representative to practice before the Office and to the admission to practice before the Office. The proposed amendment to Article 4(1)(a)(i) would read as follows: "...have the right, under the applicable law, to practice before the Office in respect of applications and registrations and, where applicable, be admitted to practice before the Office". He explained that, on the basis of this compromise proposal, the current text contained in the Basic Proposal would be supplemented with the words that had been added after "registrations".

462. The CHAIR added that, on its merits, the compromise proposal merged the text of Article 4(1)(a)(i) of the Basic Proposal and the original proposal made by the Delegation of China, as reflected in document TLT/R/DC/10. In consequence, Article 4(1)(a)(i) would first state a general principle and then point out a more specific situation. He clarified that the compromise proposal would substitute the written proposal in document TLT/R/DC/10.

463. Mr. ARBLASTER (Australia) wondered about the intent and effect of the new draft provision. In particular, he sought clarification on whether this new Article 4(1)(a)(i) would allow an Office to require that a representative have the right to practice under the applicable law and, in addition, be admitted to practice. The question was whether the two requirements in the proposed new Article 4(1)(a)(i) would apply cumulatively or alternatively.

464. Mr. WARDLE (New Zealand) recalled the earlier intervention made by his Delegation in respect of the original proposal by the Delegation of China, as reproduced in document TLT/R/DC/10. New Zealand was concerned to ensure that the wording of Article 4(1)(a)(i) did not set forth any implicit or explicit requirement for a country or an intergovernmental organization joining the Revised TLT to require their trademark agents or representatives to be regulated in such a way that they had to be admitted to practice before the Office. He said that the proposed new wording was not ideal, but in respect of what had originally been tabled, his Delegation was prepared to accept this drafting. The record of the meeting should show that the intent of Article 4(1)(a) was not to require Contracting Parties to regulate representatives.

465. The CHAIR emphasized that the second part of the compromise proposal which had been added to Article 4(1)(a)(i) of the Basic Proposal made it clear that the requirement of admission to practice would only come into play "where applicable". The addition had been made to accommodate the concerns which had been expressed earlier by the Delegation of China.

466. Mr. ARBLASTER (Australia) indicated that he was not sure whether the provision had the effect which the Delegation of New Zealand sought to avoid. He said that, to reach agreement on Article 4, it seemed necessary to supplement the requirement that the representative should have the right to practice before the Office, which was reflected in the Basic Proposal, with express mention of the possibility to require that a representative should be admitted to practice before the Office. He emphasized that, as the Delegation of New Zealand had already pointed out, this latter optional requirement, in any case, should not impose any obligation on a Contracting Party to regulate the profession of trademark

representative. He said that, if this was the intent underlying the compromise text that had been read out by the International Bureau, then this compromise text could be taken as a basis for the work of the Drafting Committee. The new text that had been added after the word “registrations” should be seen as text in brackets for the time being. The intent of the provision, however, should be settled in Main Committee I.

467. The CHAIR informed Main Committee I that the Delegation of China indicated its agreement with this way of proceeding further. He concluded that the Drafting Committee would be asked to review Article 4 and draft language that would accurately reflect the intent of Main Committee I.

Rule 10: Requirements Concerning the Request for Recordal of a License or for Amendment or Cancellation of the Recordal of a License

468. The CHAIR opened discussion on Rule 10. He drew the attention of Main Committee I to document TLT/R/DC/19 which contained a proposal by the Delegation of the Islamic Republic of Iran concerning Rule 10(2)(a), (3)(a) and (4).

469. Mr. GHORBANI (Islamic Republic of Iran) said that, as a result of internal consultations, he wished to withdraw the proposal concerning Rule 10(2)(a), (3)(a) and (4).

470. The CHAIR wondered whether Rule 10 could be sent to the Drafting Committee.

471. Mr. PARKES (FICPI) pointed out that the content of certain of the Model International Forms had been incorporated into Rule 10(2)(a)(ii), (3)(a)(ii) and (4)(ii). It was his understanding that the content of the Forms was part of the rules. He therefore expressed the hope that Main Committee I or the Drafting Committee would have the chance to review the Forms, particularly with regard to those new parts of Rule 10 which he had mentioned. He explained that these Forms were not contained in the TLT but had been newly prepared for the fourteenth session of the SCT. In consequence, they had not been scrutinized.

472. The CHAIR suggested sending Rule 10 together with the corresponding Model International Forms to the Drafting Committee in order to allow the Drafting Committee to review the Forms and remedy any deficiencies in view of the content of Rule 10 or any other provisions in the Treaty and the Regulations.

473. Mr. TASHIRO (Japan) felt that Rule 10(1)(b) may be difficult to apply. The scope or object of an amendment was not clear because it may be affected by the legal system of the Contracting Party concerned. He gave the example of a legal system in which the change of a certain item listed in Rule 10(1)(a) would not be considered as an amendment. Instead, a request for the cancellation of a license and a new recordal of license might be needed. He therefore sought to clarify that the scope or object of an amendment depended on national law.

474. Mr. HÖPPERGER (WIPO) clarified that Rule 10 did not seek to define the concept of amendment or cancellation. This was left to national law. Once a certain request fell within the scope of an amendment or cancellation pursuant to the applicable national law, however, the relevant procedures set out in Rule 10 would be applicable.

475. Mr. OMOROV (Kyrgyzstan) proposed to include in paragraph (1)(b)(i) a reference to the indication contained in item (1)(a)(xii), because a request for amendment or cancellation of the recordal of a license should also indicate whether the license concerned only a part of the territory and to determine that part of the territory.

476. Mr. HÖPPERGER (WIPO) said that perhaps the concerns expressed by the Delegation of Kyrgyzstan were addressed by subparagraph (b)(ii), which made a general reference to all the indications contained in paragraph (a), and therefore, item (xii) would be included.

477. Mr. OMOROV (Kyrgyzstan) said that he could agree with the explanations given by the International Bureau.

478. The CHAIR thanked the Delegation of Kyrgyzstan for its cooperation and comprehension. He concluded that Rule 10 could be sent to the Drafting Committee together with the Model International Forms.

[Suspension]

#### Article 11: Change in Ownership

479. The CHAIR indicated that, having held informal consultations with those Delegations that had made proposals with regard to Article 11, he intended to send the Article to the Drafting Committee.

480. Mrs. KIRIY (Russian Federation) sought clarification on the proposal made by the Delegation of the Islamic Republic of Iran with regard to Article 11(1)(b), as reproduced in document TLT/R/DC/19.

481. The CHAIR clarified that informal consultations with the Delegation of the Islamic Republic of Iran had led to the result that the Delegation no longer wished to uphold its proposal with regard to Article 11(1)(b). The same applied to the related proposals by the Delegation of the Islamic Republic of Iran concerning Rules 3(4)(b) and Rule 10(2)(a), (3)(a) and (4) which were also contained in document TLT/R/DC/19. He concluded that Article 11 could be sent to the Drafting Committee.

#### Article 6: Single Registration for Goods and/or Services in Several Classes

482. The CHAIR turned to the consideration of the proposal which the Delegation of OAPI had made with regard to Article 6, as reproduced in document TLT/R/DC/7.

483. Mr. YACOUBA KAFFA (OAPI) said that Article 6 was identical to Article 6 of the existing Treaty. He added that he was quite aware of that but that their proposal should not be considered to be a step backwards from the existing Treaty. Although the contexts were somewhat different, he considered, however, that the desired aim for all was that a large number of States acceded to the Revised Treaty. For that purpose, it would be necessary to be able to reassure all possible accession countries to the Treaty and, in that regard, a number of



systems should be taken into account, in which registration was not accepted for a single sign as constituting a mark for goods and services. For that reason, two different versions had been included in the proposal. In the first version, a slight amendment to the title of the article was proposed, from “a single registration for goods and/or services in several classes” to “possibility of a single registration for goods and/or services in several classes”.

484. In the second version it was proposed that the title be retained as it stood along with Article 6. He emphasized, however, that the insertion of a second paragraph had been proposed, which gave the possibility to a Contracting Party not to apply the obligation of a single registration so as to be able to accept the filing of a sign for services and a filing for goods. In that vein, they had taken the example of Article 5(2)(b) but, by contrast, a Contracting Party might not apply that obligation if prior to its accession to the present Treaty it possessed one registration for classes of goods and one registration for classes of services. He said that the fact that the phrase “one registration for classes of services and one registration for classes of goods”, was repeated was quite useful for clarifying matters, and he specified once again that it was not a matter of taking a step backwards. Rather, it was necessary to take account of the fact that everyone had agreed, during the preliminary and general statements, that greater flexibility was required. He was of the opinion that the two proposed versions were sufficiently flexible and that they took account of all the concerns expressed both by the private sector and by offices and States.

485. Mr. BISEREKO (Uganda) expressed support for the first version presented in the proposal by the Delegation of OAPI with an amendment. He suggested deleting the words “according to the legislation of the Contracting Party”.

486. Mr. KHAN (Pakistan) held the view that the text of Article 6 of the Basic Proposal could hardly be reconciled with the division of an application and registration for which Article 7 provided. He believed that a “may” provision in Article 6, as envisaged in the first version of the proposal by the Delegation of OAPI, would contribute to solving the problem.

487. Mr. RAGAB (Egypt) said that he had examined the proposal by the Delegation of OAPI and supported the first version set out in document TLT/R/DC/7. He believed that the wording of the first version would leave sufficient flexibility for Contracting Parties.

488. Ms. SCHMIDT (Germany) underlined that the proposal by the Delegation of OAPI required making a choice between flexibility and harmonization in trademark law. She stated that her Delegation preferred harmonization and the retention of the text contained in the Basic Proposal.

489. The CHAIR noted that the text in the Basic Proposal was identical to the text of Article 6 of the TLT.

490. Ms. SUNKER (South Africa) supported the first version presented in the proposal by the Delegation of OAPI. She felt that the “may” provision would give offices more flexibility in terms of how to handle the registration number as well as priority dates.

491. Ms. BERESFORD (United States of America) pointed out that the first version presented in the proposal by the Delegation of OAPI would give the possibility to continue a single-class registration system. The second version would require multiple-class

registrations for goods and multiple-class registrations for services but not for combinations of goods and services. She recalled that the TLT sought to achieve multiple-class registration systems in the interest of users. Under a multiple-class registration system, users had to file documents once only for all classes in the multiple-class registration when it came to the renewal of a mark, a change of name or address, or a change in ownership. Users of a single-class registration system had to file multiple documents when there was a renewal, or a change in ownership, name or address, to cover all single-class registrations that had been issued to them.

492. The Delegate stressed that the purpose of the language used in the Basic Proposal, which stemmed from the TLT, was to provide users with a more efficient way of acquiring and maintaining trademark rights. She said that the Office of the United States of America had accepted multiple-class applications and registrations for many years. This practice had not posed particular difficulties to the Office. She recalled that, in the context of the TLT, the issue of single-class registrations had led to the adoption of a transitional provision laid down in Article 22(1) of the TLT. She felt that this solution may also be appropriate in the present context. It would allow offices to maintain a single-class system for a certain period of time. However, there would also be a requirement to phase out the system at a certain point.

493. Mr. KONE (Burkina Faso) said that his Delegation supported the first alternative proposal put forward by OAPI. Given the current state of their legislation, they were aware of the difficulties that would be encountered, but he did not, however, lose sight of the excellent idea raised by the Delegation of the United States of America.

494. Mr. KHAN (Pakistan) held the view that the word “shall” in Article 6 of the Basic Proposal contradicted Article 3(2) specifying that “one and the same registration may relate to several goods and/or services”. The word “may” in Article 3(2) did not correspond to the word “shall” in Article 6.

495. Mr. HÖPPERGER (WIPO) clarified that the word “may” in Article 3(2) was a “may” from the point of view of the applicant. The applicant may decide whether the application should relate to one or several goods or services but not the Office. The multiple-class application system would result from Article 3(1). He explained that the provision which was now reflected in Article 6 of the Basic Proposal had always been understood in this sense.

496. Mr. TOPIĆ (Croatia) expressed support for the intervention made by the Delegation of the United States of America. It corresponded to the very purpose of Article 6 to set forth a “shall” provision. Otherwise, the Article was not needed altogether.

497. Mr. DOUCAS (New Zealand) expressed support for the text of the Basic Proposal. He stated that a transitional provision modeled on Article 22 of the TLT would be acceptable for his Delegation.

498. Mrs. ROAD D'IMPERIO (Uruguay) said that her Delegation considered that the wording used in the Basic Proposal, which coincided with the TLT 1994, should be maintained, and added that it agreed that a transitional provision could be used, in line with the view expressed by the Delegation of the United States of America, in order to assuage the concerns of OAPI. She said that in Uruguay multiple applications had also existed in the past

and that they had been very complicated not only for users but also for the Office. For that reason, she was of the opinion that the proposed system was much more beneficial and effective for both parties concerned.

499. Mr. CARLSON (Sweden) recognized the concerns of OAPI and those delegations who had expressed their support for the proposal. He said that, nevertheless, an amendment in line with the proposal by the Delegation of OAPI would be quite a step backwards. As the Delegation of the United States of America had pointed out, a way forward would be to include the proposal in a transitional provision.

500. Mr. ARBLASTER (Australia) expressed support for a transitional provision, as proposed by the Delegation of the United States of America.

501. Ms. ASPERGER (Austria) was in favor of a transitional provision.

502. Mrs. POWER (Canada) lent her support to a transitional provision. She said that Article 6 of the Basic Proposal should be maintained as it was.

503. Mr. EKUAGA MUAÑACHE (Equatorial Guinea) said that his Delegation agreed with the first proposal made by OAPI. As to the second proposal, he pointed out that the whole vision expressed was related to the requirement of its legal instrument. In conclusion, he endorsed what had been said by other delegations in that a way out could be found, provided that the concerns expressed were dealt with.

504. Mr. ARELLANO QUIROZ (Chile) pointed out that according to what he read, in English the proposal in one case used the word "shall" and in another case "may". However, he said that in the Spanish version in both cases the translation expressed an obligation, since the text said "dará" (shall). He therefore suggested that in the first version of the proposed Article 6, the translation should be corrected so that it was optional. He also noted that it appeared that the Article being discussed was interpreted as if there were a distinction between a single-class and a multiple-class system. In his opinion, the Article stated that there could be one registration for goods and one registration for services. In other words, that there could be a registration with 34 classes of goods or there could be a registration with the remaining 11 classes of services. All that could also be useful and not run counter to applicants' interests insofar, for example, as the application encountered opposition in relation to services and in the meantime would allow the registration of goods without having to wait for the opposition to services to be resolved, and vice versa. He clarified that his main point was that perhaps with that vision a point of consensus could also be found for that Rule.

505. Mr. AYALOGU (Nigeria) said that the African Group was of the view that the proposal made by the Delegation of Benin reflected the concerns of African countries. He called upon the Delegation of OAPI to consider in which way the proposal could be ameliorated in order to pave the way for its adoption.

506. The CHAIR summarized that the proposal by the Delegation of OAPI had been endorsed by several delegations. These delegations had expressed a preference for the first version presented in the proposal. Other delegations had stated that the text of the Basic Proposal should be retained. As a compromise, it had been proposed to add a transitional provision. He wondered about how to proceed further in this regard.

507. Mr. YACOUBA KAFFA (OAPI) said that he had listened carefully to the reactions of all participants and noted that they had received the support of a number of countries. For that reason, he was not in agreement with the summary given by the Chair when he said “a large number which considers”. He believed that a large number considered that the current text was satisfactory but pointed out above all that a large number also wished the concerns that had been expressed to be taken into account. He specified that that related both to those who had given their support and those who had endorsed the suggestion made by the Delegate of the United States of America. He therefore asked the Chair for the discussion in progress to be adjourned until the following day, so that he might consult Yaoundé and inform it of the different proposals made. He said that he would then be able to submit a new version which would take into account virtually everything that had been said at the current Committee session.

508. The CHAIR expressed gratitude for the responsive intervention by the Delegation of OAPI. He concluded that consensus had not yet been reached. Main Committee I would revisit the issue once further consultations would permit to continue the discussion.

#### Article 8: Communications

509. The CHAIR turned to Article 8. He drew the attention of Main Committee I to the proposal made by the Delegation of South Africa with regard to Article 8(1) which had been reproduced in document TLT/R/DC/15.

510. Ms. SUNKER (South Africa) said that, pursuant to Article 8(1) of the Basic Proposal, any Contracting Party may choose the means of transmittal of communications and whether it accepts communications on paper, communications in electronic form or any other form of communication. In consequence, a Contracting Party may choose to exclude communications or any registration on paper. She expressed the view that such an exclusion would be problematic for developing countries which, at this time, did not have the capabilities to file electronically. According to the proposal by the Delegation of South Africa, Article 8(1) would read: “any Contracting Party may accept communications in electronic form or any other form of communication, provided that communications in paper form shall always be accepted by Member States.”

511. The CHAIR reiterated that, in the present context, the degree of computerization of national Offices around the world –whether in developed or developing countries or LDCs– was not at issue. The issue was the question of how a person, which might be a natural person or a legal entity, could apply for and acquire a trademark registration abroad, if Member States, according to Article 8(1) of the Basic Proposal, were free to choose the means of transmittal of communications to the effect that, at one point in time, they could choose to exclude applications on paper. He recalled that, in past discussions, several delegations had expressed the desire to retain Article 8(1) of the Basic Proposal. At the same time, these delegations had indicated that, for the time being, they accepted applications on paper. Nevertheless, they would feel uneasy if they were bound to still accept communications on paper in five, 10 or 15 years’ time.

512. Mr. BISEREKO (Uganda) said that he supported the proposal by the Delegation of South Africa for the reasons given by that Delegation. He was of the opinion that the proposal did not bind Contracting Parties who wished to introduce any form of communication. It only offered sufficient flexibility for all Member States.

513. The CHAIR noted that the word “shall” in the proposal seemed to indicate a binding obligation.

514. Mrs. ROAD D’IMPERIO (Uruguay) said that her Delegation wished to reiterate once again that it agreed with the provision as it was presented in the Basic Proposal. She added that the Delegation considered that said provision had the requisite flexibility to provide Contracting Parties with the capacity to choose the means of transmission that were necessary for that purpose, i.e. that Contracting Parties had overall jurisdiction in deciding how applications were filed in their countries. She said that it was necessary to recall that that point had been one of the aims of revising the TLT 1994, and that the technological advances that had occurred in communications in the sphere of the international community should be taken into account.

515. Mr. MIAH (Bangladesh) expressed support for the proposal by the Delegation of South Africa. He held the view that the proposal would not change the substance of the provision but open more possibilities.

516. Mrs. MENJIVAR CORTÉS (El Salvador) reiterated that El Salvador wished to retain the Article as it stood in the draft Proposal, owing to the fact that the Article provided the flexibility which El Salvador was seeking.

517. Mr. CONSTENLA ARGUEDAS (Costa Rica) said that in the same way as Uruguay and El Salvador, Costa Rica considered that the text that was established in the original Proposal had the necessary flexibility and allowed each country to choose the form in which it would accept the relevant communications.

518. Mr. KHAN (Pakistan) held the view that electronic filing could take offices towards automation and scientific progress. He felt that every country was trying to move ahead in this regard. He was concerned that the wording of Article 8(1) of the Basic Proposal may be detrimental to this purpose and supported the proposal by the Delegation of South Africa.

519. The CHAIR clarified that offices in developing countries were free to choose the means of communication. The issue was whether advanced offices should be obliged to still accept paper filings from abroad. The question concerned the digital divide between applicants and not between offices.

520. Mrs. SÁNCHEZ TORRES (Cuba) said that her Delegation reiterated its support for the proposal by the Delegation of South Africa.

521. Mr. MTESA (Zambia) recalled that his Delegation had already supported the proposal by the Delegation of South Africa when it had first been introduced. He was of the opinion that the proposal was helpful especially with regard to developing countries and, in particular, the LDCs. He therefore reaffirmed the support of his Delegation for the proposal by the Delegation of South Africa.

522. Mr. MEJÍA GUEVARA (Honduras) recognized that both the Basic Proposal as well as the proposal by the Delegation of South Africa had certain merits. He also recognized that electronic means of communication were important for enhancing efficiency and effectiveness. In this regard, however, the Delegation of Honduras still wished to reserve its position in order to reconcile the two different points of view and address the concerns of all countries.

523. Mr. YACOUBA KAFFA (OAPI) considered that the proposal made by the Delegation of South Africa was quite a good one and took account of various concerns. He added that when they asked the Contracting Parties to accept paper communications, that was in no way a refusal to make progress or to move towards new technologies. He simply considered that there were certain stages to be overcome in advance and that time was required for that. He noted that if, for example, in the future a developed country such as the United States of America or Canada adopted only the electronic filing system and a foreigner wished to make a registration, that person would have to go via an agent. However, he remained convinced that the possibility should always be retained of making paper filings. As an example, he said that currently everyone used a credit card but that banks did not, however, refuse checks. He supposed that in all offices there were nevertheless forms to be completed even if electronically. In conclusion, he said once again that the proposal by South Africa was quite a good one and deserved to be taken into consideration.

524. Ms. LIEW (Singapore) underlined that the present text, as reflected in Article 8(1) of the Basic Proposal, offered flexibility to allow a Contracting Party to determine the means of communication that were appropriate for that Contracting Party. At the same time, the text contained in the Basic Proposal allowed Contracting Parties to respond to progressive changes in their regime brought about by technological developments. As an objective of the Revised TLT was to update the TLT of 1994, Main Committee I should be careful not to lock itself in a position that may become outdated in the future.

525. Mr. AYALOGU (Nigeria) informed Main Committee I that the proposal by the Delegation of South Africa had been considered within the African Group and had been deemed meritorious, especially in view of the flexibility that it offered to applicants. He recalled that the Chair had clarified at the outset of the present discussion that the issue was not the degree of computerization of the trademark Office but how a natural person or a legal entity could apply for the registration of a particular mark abroad. At a certain point in time, Member States may choose to exclude applications on paper. It was the belief of the African Group that the proposal by the Delegation of South Africa offered enough flexibility to accommodate the likelihood or the possibility that certain individuals may not gain access to electronic filing as a mode of communication. It ensured that the option of paper applications would be retained. This was very important. The African Group felt that the digital divide implied that certain individuals or entities could not gain access to means of electronic filing. For this reason, the option of paper applications and communications should not be excluded but be retained.

526. Mr. TOPIĆ (Croatia) asked for an example of the detrimental effect which the wording of the Basic Proposal was believed to have.

527. Mr. GANG (China) supported the proposal made by the Delegation of South Africa. If a State accepted only filings in electronic form, applicants in less developed countries or countries lacking sufficient technical means might encounter difficulties. In his opinion, the proposal by the Delegation of South Africa was quite flexible and took into consideration the wider needs of a large majority of countries.

528. Mr. RAGAB (Egypt) recalled the discussion on the Patent Law Treaty. He said that, in fact, there had been the same controversy, the same proposals and the same views. Irrespective of these difficulties, it had been possible to establish a text which responded to the concerns of developing countries. The proposal by the Delegation of South African did not prevent the most developed countries from accepting communications in electronic form. It did not prevent developing countries from accepting communication in electronic form either. However, it took into consideration the reality and the different levels of technology

529. The Delegate pointed out that it would pose substantial difficulties if all developing countries had to accept communications in electronic form from day one, particularly with regard to applications. For this reason, he believed that the proposal by the Delegation of South Africa was flexible. It took into account the interests of all countries and responded to all their concerns in a very realistic way. He stated that the Delegation of Egypt supported the proposal by the Delegation of South Africa and called upon all developing countries and LDCs to support the proposal as well.

530. Mr. WARDLE (New Zealand) expressed support for the text contained in the Basic Proposal and the intervention made by the Delegation of Singapore. The Revised TLT sought to allow Contracting Parties to take advantage of the benefits and opportunities that new technologies could provide. The Delegation of New Zealand considered that a Contracting Party should not be bound long into the future to provide paper registration processes for trademarks. This would deny the opportunity to take advantage of the efficiency and cost savings that could be achieved for both trademark applicants and trademark Offices through the use of new technologies.

531. Mr. MARKOVIĆ (Serbia and Montenegro) said that his Delegation thought that the text contained in the basic document was fairly flexible and that it allowed each country to choose the means of communication that was most appropriate to its stage of technical development.

532. Mr. AMEHOU (Benin) said that progress could not be stopped but that changing habits took time. He was therefore of the opinion that in order to give time to those that did not have advanced technological means, it was better to stick to the proposal by South Africa. For that reason, his Delegation supported that proposal.

533. Mr. KONE (Burkina Faso) said that his Delegation firmly supported the proposal made by South Africa and that he would not come back to all the reasons that had already been very clearly explained by those that had spoken before him. He said that he had listened with careful attention to certain delegations that had spoken in particular of the aims of the Revised Treaty, which consisted in benefiting from new technologies, something which he considered to be absolutely right. He did not think that the Delegation of South Africa had been unaware of that aim when it had formulated its proposal. He said it was one thing to want actually to

benefit from the technologies available and something quite different to take precautions so that the proposed revision did not result in setting aside a significant number of countries that wished to play an effective role within the scope opened up by the convention.

534. He considered that if such precautions were not taken, the risk was that a result would be obtained contrary to that which was initially sought. He added that if a large number of accession countries were sought, it appeared desirable that the concerns of all parties should be taken into account. In conclusion, he said that his Delegation supported the proposal made by South Africa unreservedly.

535. Mr. AL-MOHAMMED (Iraq) considered the original text contained in the Basic Proposal to be confusing. It stipulated that a Contracting Party may accept different means of transmittal. In consequence, there were different means of accessing offices. The text, however, did not specify in which way communications could be received. He held the view that, if a country accepted communications in paper form but received communications in electronic form, there would be some sort of conflict. It would therefore be preferable to specify not only the means of receiving communications but also the means of transmittal in Article 6.

536. Ms. BERESFORD (United States of America) expressed her understanding that there was agreement that the current text did not require any office to accept applications filed electronically. The current text allowed any office to continue to receive paper or any other means that it chose for the filing of applications. She felt that this point was clearly understood. In her view, the concern seemed to be for applicants who were unable to file. She expressed doubt about this particular concern for a number of reasons. All applicants who filed into the Office of another country had to comply with a number of provisions. They had to file in the language of the Office, they had to pay in the currency of the Office, and they frequently had to consult a local agent in order to file. She underlined that any applicant filing to another country was obliged to meet these requirements.

537. The Delegate said that, if a country also chose to have applications only filed electronically, then this would be only one additional requirement that the applicant had to fulfill along with the currency requirement, the language requirement and the requirement to get a representative. All of these latter requirements would continue to be in force under the national laws of the various Contracting Parties. She felt that there was a risk of losing sight of the general situation because of the focus on electronic filing requirements in the present context. Applicants filing from one country to another would still need to meet the specific national filing requirements of the country to which they were sending their application. Although a number of delegations had emphasized the flexibility of the proposal by the Delegation of South Africa, it was very clear to her that the proposal was not flexible in that it implied that an office had to accept paper forever. She failed to see how this approach could be regarded as flexible. It was her concern that the provision in the proposal was not understood completely by everyone. She indicated that the only way forward was a transitional "sunset" provision which could ensure that the obligation to continue to accept paper ended at a certain date. The requirement to accept paper definitely had to end at a certain point.



538. Mr. OTIENO-ODEK (Kenya) stressed that the principle of territoriality had to be considered in the context of Article 6. He recalled that Article 1 provided definitions of the “Office” and the “Contracting Party”. It was his understanding that, when an application was accessing a Contracting Party, it had to go through the process outlined by the Delegation of the United States of America. The application was passed on to the Office by agents if national law required representation in this regard. He held the view that the proposal by the Delegation of South Africa was applicable to this process. In the case of an office requiring communications to be in electronic form, however, the local agent could convert the application into the appropriate electronic format. He felt that this would create a different scenario concerning the Contracting Party rather than the Office. In his view, it was important to consider this particular difference in the context of discussing Article 6.

539. Mr. ANDIMA (Namibia) said that the present discussion had to be seen in the context of the proposal made by the Delegation of Nigeria on behalf of the African Group, as contained in document TLT/R/DC/20 Rev. He recognized the explanation given by the Delegation of the United States of America. He noted that paper filing should come to an end one day. However, it was his belief that this end could only be achieved on the basis of the objectives set out in the proposal made by the Delegation of Nigeria on behalf of the African Group. On this understanding, he expressed support for the proposal by the Delegation of South Africa.

540. Mr. CONSTENLA ARGUEDAS (Costa Rica) said that his Delegation wished to include another idea that might support the retention of the original proposal for Article 8. From his point of view, the original Article 8 could be considered to combine technological development and sustainable development perfectly. That concept was very important in developing countries and the Delegate phrased it as follows: the possibility of having electronic mechanisms allowed greater environmental protection in the sense that if all countries were obliged to maintain the paper format, on an environmental level that involved destruction of ecological systems as a result of having to cut down trees in order to continue with the paper format. In that regard, he said that Costa Rica wished to reiterate its support for Article 8.

541. Mr. SUNILA (Finland) pointed out that administrative reforms may take place on a broad horizontal basis and not only in respect of one particular Office, such as the trademark Office. Finland had enacted legislation which promoted the use of electronic communications between citizens and the administration. This legislation applied to all public sectors and bodies including the trademark Office. He clarified that the legislation to which he was referring did not set forth a requirement to use electronic communications. It only sought to promote the use of electronic communications.

542. The Delegate explained that, for his Delegation, it would be very difficult to make commitments in the area of trademark law which could become obstacles to administrative reforms that may take place on a more horizontal basis in the foreseeable future. For this reason, he held the view that the present wording of the Basic Proposal should be retained. He indicated that a transitional provision, as outlined by the Delegation of the United States of America, could also be considered.

543. Miss KADRI (Algeria) said that her Delegation had already expressed its views through the African Group in relation to Article 8, and that she considered that the proposal made by South Africa was an improvement on the basic text and took account of the changes in the means available to offices and current reality. In conclusion, she therefore said that her Delegation firmly supported the proposal.

544. Mr. HARLLEY (Ghana) supported the proposal by the Delegation of South Africa. He underscored the point that most developing countries did not have the means to introduce electronic filing systems.

545. Mr. NGINGA (Congo) said that his Delegation had carefully examined the text contained in the Basic Proposal and in the proposal put forward by South Africa. He noted that both proposals allowed the modern forms of communication currently existing to be used. However, the proposal by South Africa offered a certain primacy to the use of paper communications, which was moreover common practice in the Congo, given that the means for filing trademark registration applications by electronic means were underdeveloped in the country. For that reason and for the other reasons raised by African Delegations, he said that the Congo supported the proposal by South Africa.

546. Mr. ARBLASTER (Australia) pointed out that the provision resulting from the present discussion would have to be effective in practice. In Australia, as in most countries, it was of no value to have a trademark unless the trademark holder sold goods in the country. Typically, the sale of goods required a distribution chain or a business in the country. He also pointed out that, in some countries, use of a mark was a prerequisite for its registration. If a mark was not used in Australia, for instance, in the course of a commercial activity carried out by the holder or a distributor, the mark could be removed from the register.

547. The Delegate stressed that, as the Delegation of Uganda had clarified, a person filing overseas, typically, would go through an agent in the country concerned because a business relationship with the country had already been established. An agent in the country, however, could be expected to understand the requirements applied by the Office and be able to meet them. Accordingly, an applicant could communicate in paper to an agent, for instance, in Australia. The agent could then communicate electronically with the Office. It was his understanding that Article 6 of the Basic Proposal was not intended to provide for the possibility of a Contracting Party to regulate communications with an agent in a way that an agent would refuse to accept paper. Article 6 only related to whether a Contracting Party would regulate communications with its Office.

548. He wondered whether some language would allow that issue to be made clear in the text of the Revised TLT and whether this might help to address some of the concerns that had been expressed by delegations. He clarified that his Delegation supported the text of the Basic Proposal but also understood the concerns of developing countries. He felt that, in any case, it would be necessary to find a solution which did not only create a chimera giving the impression of meeting concerns. By contrast, useful assistance was needed.

549. Mrs. JUNUS (Indonesia) recalled that a simpler and more effective and efficient trademark system was the main objective of the Revised TLT. She expressed support for Article 8, as contained in the Basic Proposal, because applicants from countries which were not very advanced with regard to communication systems would be assisted by representatives in the countries where the registration of a trademark was sought.

550. Mrs. RÍOS DE DAVIS (Panama) said that Panama was in the process of adapting its legislation in order to allow the electronic filing of applications and what it was doing was to propose differentiated lower fees for electronic filing, precisely because that was the means of transmission which they wished to encourage. She clarified that her Office was considering maintaining both filing systems. Consequently, her Delegation agreed with the Basic Proposal but also with the alternative proposed by the Delegation of the United States of America regarding the possibility of a transitional provision allowing the extension of transmission in paper format where an office so desired, thus providing flexibility for members.

551. Mr. KAHWAGI RAGE (Mexico) said that Mexico was a developing country and that it had always been very neutral in its activities in the SCT, and the present Committee. He drew attention, however, to the fact that the proposal by South Africa tried to limit offices that received trademark registration applications, in terms of their capacity to act, or to receive or archive such applications. In his opinion, the provision was flexible and, as it stood, did not oblige any party to receive paper applications or to receive electronic applications. For that reason, from his point of view obliging those countries that were already able to receive only electronic applications to continue receiving paper applications was of benefit. He noted that the Mexican Office, together with many other offices, grew by a number of square meters per day, owing to the amount of paper that was submitted in the form of applications, and so that same year electronic applications would already be implemented with a view, in the future, to that being the only way in which to receive applications. Consequently, he said that his Delegation supported the Basic Proposal for a Revised TLT as it stood in its original form. He added that where the concern of South Africa and other developing countries or LDCs was that citizens had the opportunity to file applications with those offices, he proposed the following: instead of trying to impose a situation on those offices where they continued receiving paper applications, he proposed that such offices allow the filing of applications by providing, within their facilities, equipment and the assistance necessary for users to be able to file applications. Within those same facilities, there should be computer or other equipment so that people who did not have access in a particular case for the filing of electronic applications could do so. He said that it was the LDCs that lost most in not having electronic applications, because Mexico could file an application by electronic means in the United States of America for example. However, in order to file an application in Mexico, United States nationals had to go to Mexico City and file the application on paper. He emphasized that it required a great deal more effort from a US citizen to file an application than it did from a Mexican citizen who filed it electronically. In conclusion, he said that not allowing such a development was very beneficial and thought should be given only to the fact that computers were not developed in their offices.

552. Mr. ULLRICH (Austria) expressed support for the text contained in the Basic Proposal and the interventions from those delegations that were in favor of the Basic Proposal. He stated that a transitional provision would also be acceptable.

553. Mr. BELFORT (Haiti) said that the Delegation of Haiti reiterated its support for the proposal by South Africa, not out of reluctance to change but because it was taking into account the specific features of all groups, and in particular of the Group of LDCs to which it belonged.

554. Mr. MABONZO (Congo) said that he had followed the debates between different parties closely, both among developed and developing countries. He recalled that in his first statement he had said that the digital divide was very significant and that developing countries experienced great difficulties. He added, however, that he knew very well that the desired aim of revising the Treaty was to reduce the significant amounts of paper which offices used and to use means of providing better performance. He said that the proposal by the United States of America to provide a transitional clause appeared to be the most appropriate since it would allow States that did not have the means to receive or make electronic filings to be able to implement the Treaty. For that reason, he was of the opinion that if the text was maintained as it stood, a transitional clause should be found to allow developing countries to adapt to the pace of development.

555. Mr. KARUNARATNA (Sri Lanka) said that his Delegation sincerely sympathized with the proposal made by the Delegation of South Africa which attempted to address the concerns of developing countries and LDCs alike. He also understood the concerns expressed by the delegations that favored maintaining the current provisions as they were. The Revised TLT, however, was intended to respond to technological developments. Therefore, a solution was needed that achieved a balance between these two approaches. He felt that, in consequence, a transitional period should be offered which allowed an office to deny the receipt of communications in paper if it so wished.

556. Mr. RUBIO ESCOBAR (Colombia) said that his Delegation supported the text as it was contained in the Basic Proposal. It supported the text as the Basic Proposal was balanced and showed flexibility insofar as each State chose the means of communication most suited to its level of development. In other words, developing countries could choose, while they had technical resources to adapt to new technological developments, paper as a means of communication or by contrast an electronic means of communication. He said that in relation to its users, it was obviously suitable for such parties if developed countries had electronic means of transmission. For that reason, he said that the Delegation of Colombia considered that the Basic Proposal showed sufficient flexibility and that it was balanced and on that basis he would ask the Plenary to accept the Basic Proposal as it was presented.

557. Mr. REQUENA (France) said that his Delegation had no problem with the Basic Proposal. He considered that on reading the provision, if France wished never to accept electronic filings and if it still wished to impose paper filing, it could do so. He emphasized that there was nothing in the provision in question that would oblige France to move to electronic filing. It was extremely important to remind all countries of that fact. All countries retained the possibility of choosing their means of communication, be it on paper, electronically or even both should they so wish. He was therefore of the opinion that things could be clarified in the provision in order to assuage the fears that had been expressed. He noted that certain countries appeared to believe that their offices would be obliged within the next few years to move to electronic filing, but it appeared to him that there was no such obligation in the text. He stressed that the only question that remained pending was the case of a cross-border filing where a national actually wanted to file in another country and that

country required recourse to electronic means. As recalled and expressed in excellent terms by the Delegate of Australia, he believed that it was really an academic assumption if the national in question did not have an agent or representative in the country, or did not intend to undertake a commercial activity in the country. As also recalled by the Delegate of the United States of America, he repeated that virtually all countries required recourse to an agent for the purposes of choosing a domicile in the country. It therefore appeared once again that there was absolutely nothing in the text that obliged an office to move to electronic filing and it was from that point of view that the reference to a transitional clause caused difficulties for him. The Delegate said that he did not know what such a provision would lead to, given that it appeared to imply that countries which were currently subject to paper filing would have a certain period to move to electronic filing. He believed that that was not at all the purpose of the provision in question, or that it meant that a country that would currently impose electronic filing would tolerate paper filing for a period of a few years. He therefore said that if the countries that currently imposed electronic filing were prepared to tolerate that, they should say so clearly. He concluded by reiterating that the provision in no way imposed the use of electronic filing and that his Delegation therefore supported its retention in the current Basic Proposal.

558. Mr. YACOUBA KAFFA (OAPI) said that there appeared to be a problem of communication between the different delegations, since in no way did they believe that the provision claimed to impose the electronic filing method on them. What was of concern was the need for the method of paper communication to be maintained in the different offices. In that regard, he said that he had a number of questions to ask the different delegations of the developed countries. He wanted previously to specify that the problem did not arise so much for offices since, currently, even if an office such as that of OAPI did not use electronic filing, it had the means to be able to develop IT applications sufficiently to accept such filings in the future.

559. Having read certain provisions both of the text and the Regulations, he wished to raise a number of questions. He noted that Article 17(5) referred to evidence: “any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in the request or in any document referred to in the Regulations”, and for that reason he wished the Delegates of Australia and of the United States of America to tell him how they proceeded in that type of case. Taking one example, he said that if in the future an OAPI applicant, in accordance with the Paris Convention, wished to make a filing in Australia or in the United States of America and claim the priority of its previous document, he would like to know whether the OAPI applicant should supply a scanned copy of the previous document and if the Canadian, Australian or US Office would accept that scanned copy. That was true despite the fact that it was possible to make numerous changes by electronic means, including providing a document which might look like an OAPI document without actually being one.

560. He repeated that he did not believe that an attempt was being made to impose only electronic filing, and noted that the Article was clear on that point. What was of concern to him was to give Contracting Parties the possibility to exclude filing or any communication whatsoever on paper. He believed that that would be quite premature and might be prejudicial to applicants. He added that, as indicated by the Delegate of Australia, there was no doubt that someone trading with the United States of America or Australia should be subject to a number of procedures, but as already mentioned in the example, the cause of

concern was the assumption that priority was claimed or also where it was necessary to register a license if the firm was based in a developing country where electronic means had not been developed. He wondered how they could provide those documents electronically in such a case.

561. Ms. SUNKER (South Africa) pointed out that she had listened with great interest to the arguments in favor of the proposal made by her Delegation which had been advanced by numerous supporting delegations. She had also taken account of the proposal by the Delegation of the United States of America to introduce a transitional provision. She indicated her desire to explore the substance of the proposals in the framework of informal discussions in order to find out whether agreement on the issue could be reached.

562. The CHAIR expressed gratitude for the cooperative and constructive approach indicated by the Delegation of South Africa. He felt that no further advancements could be achieved in Main Committee I and invited interested delegations to enter into informal consultations.

563. Mr. ARBLASTER (Australia) referred to the intervention made by the Delegation of OAPI. He explained that, in Australia, Article 17(5) would be handled in the way that an agent would communicate with the Office.

564. Mr. MEJÍA GUEVARA (Honduras) said that from the beginning his Delegation had expressed its reservations in relation to achieving a consensus and, after hearing the positions expressed by the different delegations and listening carefully to the procedural proposal made by South Africa, said that his Delegation also wished to make an intermediate proposal. The idea was to leave Article 8(1) as it stood and to add a provision that established a transitional period. However, despite the views expressed, he said that any intermediate proposal in that regard would also be problematic. In actual fact, the transitional period could constitute a lot of time for some countries while for others it might be a short time. He said that through the experience gained by other countries, including developing countries, he knew that such a transitional period had taken its time. The Delegate was of the opinion that the proposal by the United States of America was still much more flexible because it provided the opportunity to create a transitional provision. He said that his Delegation was in a position to submit the proposal on the following day.

565. Ms. SUNKER (South Africa) expressed gratitude for accommodating the proposal by the Delegation of South Africa.

566. The CHAIR adjourned the meeting.

Tenth Meeting Wednesday, March 22, 2006 Morning
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Proposed new Article 1bis: Principles

567. The CHAIR drew the attention of Main Committee I to document TLT/R/DC/21 containing a proposal by the Delegation of the Islamic Republic of Iran to introduce a new Article 1bis in the Revised TLT which reflected certain principles.

568. Mr. GHORBANI (Islamic Republic of Iran) recalled that the opening declaration which his Delegation had made at the second meeting of the Plenary had laid emphasis on the need for flexibility and a proper balance in the new Treaty. He explained that the proposal by the Delegation of the Islamic Republic of Iran, as presented in document TLT/R/DC/21, was based on these key notions. The proposal consisted of four parts.

569. First, the proposal sought to define the objective of simplification and facilitation underlying the Revised TLT. Second, while recognizing the process of simplification, there was a need to recognize that the aim of harmonization had to be subject to certain conditions. There was no intention to prevent developed countries from meeting their technological requirements. Nevertheless, developing countries and the LDCs needed some breathing space to be created by appropriate limitations and exceptions. In this vein, the second paragraph of the proposed new Article 1bis recognized not only the right of developed countries but also certain safeguards in favor of developing countries. The word “optionally” had been used in order to take account of the different levels of development with regard to information technology systems. Paragraph 2 of the proposal had a close interrelation with Article 2 of the Treaty as well as Article 25(2).

570. The Delegate explained that paragraph 3 of the proposed new Article 1bis was closely related to the preceding paragraph 2. He pointed out that, recognizing the rights of developed countries on the one hand and safeguarding exceptions and limitations in the interest of developing countries on the other hand, the digital gap between these two groups of countries could be narrowed. The fourth paragraph of the proposed text contained a suggestion on how to proceed in the context of implementing the Treaty.

571. In Main Committee II, it had been possible to arrive at a compromise solution with regard to Article 25(2). He felt that the principle expressed in paragraph 2 of the proposed Article 1bis, therefore, had met with approval. The concern of the Delegation of the Islamic Republic of Iran with regard to harmonization had been accommodated by the compromise solution. He was confident that the optional nature of the Treaty would now remain. For this reason, he indicated that his Delegation did not see any further necessity of incorporating the new proposed Article 1bis in the Treaty. He suggested that the proposed Article 1bis should be taken into account in the course of the consultations on horizontal issues which were held by the President.

572. The CHAIR expressed gratitude for the explanations and the very reasonable suggestion by the Delegation of the Islamic Republic of Iran. He concluded that Main Committee I could pass on the proposal by the Delegation of the Islamic Republic of Iran which was contained in document TLT/R/DC/21 to the consultations on horizontal issues held by the President.

Proposal to insert a new Article

573. Mr. AMOUSSOU (Benin) said that two minor corrections should be made to the French version of document TLT/R/DC/16 containing the proposal by the LDCs in order to bring it into line with the English version. In paragraph 1, line 2 the word “mettront” should be inserted instead of “mettent”. In paragraph 2, line 1, the text should read with reference to the LDCs “in building up” instead of helping the LDCs “to develop their capacities”.

574. The Delegate specified that there was no preference for the place of insertion in the Treaty of the proposal by the LDCs. If the Chair considered it appropriate, the Delegate said that the proposal could be inserted as Article 26*bis*. He simply wished the clause to be inserted in the actual body of the Treaty. Finally, he emphasized that a problem of time limits had been raised by certain delegations during their informal consultations. In that regard, he said that the LDCs did not want to restrict themselves to time limits as a way of showing their willingness to implement the Treaty. Their mass presence bore witness to that willingness. What they were requesting was the necessary support and political will of their partners for such implementation.

575. Returning to the note explaining the Delegation’s proposal, he said that the LDCs recognized as such in 1971 by the United Nations now included 49 countries, of which 34 were in Africa, nine in Asia, five in the Pacific and one in the Caribbean. He said that the four criteria selected in 2000 by the United Nations Economic and Social Council to draw up the list of LDCs were:

1. a low-income criterion based on a three-year average estimate of the gross national income *per capita* if less than 900 US dollars;
2. a human-resource weakness criterion involving a composite Human Assets Index based on indicators of nutrition, health, education and adult literacy;
3. an economic vulnerability criterion, involving a composite Economic Vulnerability Index based on indicators of the instability of agricultural production, the instability of exports of goods and services, the economic importance of non-traditional activities, merchandise export concentration and the handicap of economic smallness;
4. demographic criterion: should not exceed 75 million inhabitants.

576. He said that the Group of LDCs would like to emerge as quickly as possible from this situation of vulnerability and therefore invited its development partners to provide assistance in achieving the Millennium Development Goals.

577. He added that the LDCs were satisfied with the initiatives that had been taken during the past few years by WIPO, in particular through its Director General, with a view to helping those countries tackle the problems of development, and the constraints they faced in relation to their integration in the IP culture and the global economy in the broad sense. In relation to the draft Revised TLT currently being negotiated, he said that the LDCs reaffirmed their



sincere willingness to see the current Conference lead to the successful adoption of said Treaty, from which they intended to benefit as much as possible as a Contracting Party, but also to assume fully the obligations resulting therefrom. He said that in the light of what had gone before, the LDCs had submitted, through the Delegation of Benin, the proposal contained in document TLT/R/DC/16 of March 17, 2006, which they wished to see inserted in the provisions on the draft Revised TLT.

578. It was not possible to benefit fully from the potential of intellectual property without creating simultaneously, within the LDCs, capacities in the key fields and sectors to which intellectual property was linked. He specified that it was useless to emphasize that the signing of and will to implement the Revised Treaty were not in themselves sufficient for the LDCs owing to the structural problems and other numerous difficulties which they faced, despite the large-scale reform policies and measures that many of those countries had endeavored to introduce during the past few years. For that reason, they called for assistance from developed countries with a view to strengthening their administrative and institutional capacities so as gradually to implement the Treaty.

579. He said that the expected assistance should, in the first instance, be directed at evaluating the needs of LDCs and, secondly, the implementation with coordination by WIPO of suitable programs for achieving the desired objectives in the shortest possible time. In conclusion, on behalf of the LDCs he thanked all the developing countries present which, as such, were clearly aware of the specific problems of the LDCs, had always supported them and would not fail to support the proposals submitted for evaluation by the Conference. He also thanked the developed countries for their actions in support of the LDCs.

580. Mr. AHMED (Bangladesh) reserved the right of his Delegation to give additional explanations with regard to the intervention by the Delegation of Benin.

581. The CHAIR indicated that the proposal would be dealt with at a later meeting of Main Committee I.

582. The CHAIR adjourned the meeting.

Eleventh Meeting Thursday, March 23, 2006 Morning
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#### Article 5: Filing Date

583. The CHAIR recalled that Main Committee I still had to finalize its work on Articles 5, 6 and 8 as well as Rule 6. He pointed out that Article 5 had already been discussed in detail and informed Main Committee I that the pending proposal on Article 5(1)(a)(i), reproduced in document TLT/R/DC/19, needed no longer to be considered by Main Committee I as a result of informal consultations.

584. In the absence of any further proposals on Article 5, the Chair concluded that the Article could be sent to the Drafting Committee.

Article 6: Single Registration for Goods and/or Services in Several Classes

585. The CHAIR turned to Article 6. He drew the attention of Main Committee I to document TLT/R/DC/7 containing a proposal by the Delegation of OAPI with regard to Article 6. He recalled that this proposal had already been discussed in Main Committee I. The discussion had led to informal consultations among interested delegations in order to explore common ground for a compromise solution.

586. Mr. YACOUBA KAFA (OAPI) recalled that OAPI had expressed concerns regarding Article 6. In order better to take into account the different points of view, and following informal discussions that had been held with the different groups, he proposed giving Member States or intergovernmental organizations the possibility to express reservations so that the obligations resulting from Article 6 did not apply to them.

587. In that regard, he specified that the OAPI Delegation, given that the informal discussions were conducted much more often in English than in French, had requested assistance from certain other delegations in drafting its proposal in English. He said that the Delegate of Australia had put himself forward for that exercise and that he considered they had produced a proposal that could satisfy OAPI and the States which did not have a single registration system for all types of classes completely. The OAPI Delegate hoped that the President would give the floor to the Delegate of Australia so that he could introduce the proposal drafted in English.

588. The CHAIR expressed gratitude to all delegations who had participated in the constructive informal consultations. He explained that the compromise text, to which the Delegation of OAPI had referred, concerned the possibility of making a reservation with regard to the applicability of Article 6. For practical reasons and reasons of public international law, it was proposed to include the compromise text in the final and administrative clauses of the Revised TLT. Unlike the original proposal made by the Delegation of OAPI, the compromise text would not alter Article 6 but constitute an additional paragraph to Article 29. He recalled that a similar way of procedure had been followed in the case of the proposal made by the Delegation of Japan which was reproduced in document TLT/R/DC/6. He proposed that Main Committee I should take a decision on the substance of the proposed compromise text which would then first be sent to the Drafting Committee before being presented to Main Committee II for adoption.

589. The CHAIR read out the following paragraph to be added to Article 29: “[a]ny State or intergovernmental organization, whose legislation at the date of adoption of this Treaty provides for a multiple-class registration for products and for a multiple-class registration for services may, when acceding to this Treaty, declare through a reservation that the provisions of Article 6 shall not apply.”

590. Mr. WARDLE (New Zealand) stated that the Delegation of New Zealand gave its support to the intent of the wording read out by the Chair, namely to offer the possibility of a reservation to Article 6 in the particular circumstances reflected in the proposed compromise text.

591. Mr. OTIENO-ODEK (Kenya) expressed support for the compromise on Article 6 which would give the right of a reservation to any State or intergovernmental organization.

592. Mr. KHAN (Pakistan) expressed support for the compromise text which had been presented by the Chair. He wondered whether it would be necessary to refer to application/registration in the text.

593. The CHAIR said that the Drafting Committee would have a close look at the text.

594. Ms. BERESFORD (United States of America) indicated that her Delegation preferred the language in Article 6 which stemmed from the TLT. She clarified that the issues raised by the Delegation of OAPI in respect of Article 6 would be dealt with in the framework of a reservation to be included in Article 29. She pointed out that it was the understanding of her Delegation that this reservation was limited to those Contracting Parties which had two registers –one register for goods and one register for services. Her Delegation further understood that these Contracting Parties would allow for multiple-class registrations within each of these two registers. This meant that applicants would still receive at the most two registrations, one for multiple classes of goods and one for multiple classes of services. She noted that two registrations required more filings for the purposes of renewals or changes of address or changes of ownership. Two registrations, however, were preferable to 45 registrations. On this understanding, she stated that her Delegation could accept the intent of the compromise. She thanked all delegations that participated in reaching this accommodation.

595. Mr. ENÄJÄRVI (Finland) indicated that his Delegation supported the compromise proposal on the same understanding as expressed by the Delegation of the United States of America.

596. The CHAIR expressed gratitude for the support which the compromise text had received. He concluded that the proposed text for an additional paragraph to Article 29 could be sent to the Drafting Committee.

#### Article 8: Communications

597. The CHAIR turned to Article 8. He informed Main Committee I that, in respect of this Article, two proposals were pending. The first proposal had been made by the Delegation of South Africa. It related to Article 8(1) and was contained in document TLT/R/DC/15. The second proposal was to be found in document TLT/R/DC/12. It had been made by the Delegation of the Ukraine and was related to Article 8(2). The Chair suggested to start with the first proposal concerning Article 8(1).

598. Ms. SUNKER (South Africa) recalled the original proposal by her Delegation that, under Article 8(1), any Contracting Party may accept communications in electronic form or any other form of communication, provided that communications in paper form should always be accepted by Member States. She informed Main Committee I that informal consultations on this proposal had led to a compromise solution.

599. Mrs. MTSHALI (South Africa) thanked Main Committee I for giving her Delegation the time to seek a durable solution to its concerns and those of many developing countries around Article 8(1) of the Basic Proposal. She expressed her gratitude to all delegations that supported the Delegation of South Africa. She recalled that Article 8 constituted one of the major reasons for convening the Diplomatic Conference. That was to enable the Revised TLT to respond to developments in information and telecommunication technology. She recognized that this was a noble idea which her Delegation wished to support. Nevertheless, her Delegation had expressed certain reservations with regard to the current drafting of Article 8 in the Basic Proposal.

600. She explained that the Delegation of South Africa had departed from the premise that any outcome of this Conference should reflect the interests and concerns of all Member States and, in particular, the striving of the international community for justice in the international system. The Delegation of South Africa had considered that the drafting of Article 8(1) of the Basic Proposal was inadequate in balance and likely to perpetuate the digital divide. As others disagreed with this view, her Delegation had engaged in clarifying matters and negotiating an acceptable compromise. It had been possible to accommodate each other on the following basis: instead of seeking to change the language of Article 8(1) in accordance with the original proposal made by the Delegation of South Africa, agreement had been reached to maintain Article 8(1) of the Basic Proposal and to add a safeguard clause in Article 8(7) which would clarify the relationship between users and agents so as to avoid any misinterpretation or misapplication of the basic intent of Article 8. She therefore submitted to Main Committee I this compromise proposal as the best way of advancing the work on the Treaty. She pointed out that the compromise solution was acceptable for her Delegation and expressed the hope that other delegations may enjoy equal comfort with the formulation presently proposed.

601. The CHAIR expressed gratitude for the intervention by the Delegation of South Africa. He thanked all delegations which had worked hard and long to finally arrive at a good analysis of the concerns and a compromise proposal. He read out the following text for a new paragraph 7 of Article 8: “Nothing in this Article regulates the means of communication between an applicant, holder or other interested person and its representative.” He clarified that Article 8(1) would be retained as presented in the Basic Proposal.

602. Mr. WARDLE (New Zealand) expressed support for this new proposal. He thanked the African Group and, in particular, the Delegation of South Africa for their time and patience throughout the work on a compromise solution.

603. Mr. OTIENO-ODEK (Kenya) stated that his Delegation supported the Delegation of South Africa in arriving at the compromise for Article 8 and the addition of a new paragraph 7.

604. Mr. RAGAB (Egypt) appreciated the effort made by the Delegation of South Africa in order to achieve the compromise text which his Delegation supported, just as it had supported the original proposal by the Delegation of South Africa. He said that the present compromise solution constituted a minimum. It would not be possible to go any further.

605. Mr. ENÄJÄRVI (Finland) expressed support for the additional clarification in the new Article 8(7). He was content that the problem which, at the outset, had appeared difficult, had finally been solved in this way.

606. Ms. BERESFORD (United States of America) appreciated the flexibility of Main Committee I to allow for the consultations that had taken place yesterday. In the course of these consultations, it had been possible to achieve clarity in the text of Article 8. She said that her Delegation agreed with the contents of the compromise language in the new Article 8(7) and wished to thank all of those who had worked intensively and with open hearts and open minds to achieve this result.

607. Mr. KHAN (Pakistan) thanked the Delegation of South Africa and all other groups that had worked hard to achieve consensus on a new clause in Article 8(7). He was glad that the issue could be resolved amicably. He felt that the compromise solution satisfied the needs of developing countries and LDCs alike.

608. The CHAIR concluded that Article 8(1) and (7) would be presented to the Drafting Committee in the following shape: Article 8(1) would be retained as contained in the Basic Proposal. A new Article 8(7) would be added which contained the compromise text which the Committee had just discussed. He thanked all participants in the process of finding a compromise for the effort they had made, as well as the excellent result which had been achieved. He drew the attention of Main Committee I to document TLT/R/DC/12 which contained a proposal concerning Article 8(2)(c) that had been made by the Delegation of the Ukraine.

609. Mr. ZHAROV (Ukraine) explained that the proposal by the Delegation of the Ukraine was related to the fact that, by referring to the “Contracting Party” in Article 8(2)(c), it ensured a consistent approach to the wording of the Treaty, and also to the fact that the language of the communication may be prescribed only by the legislation of the Contracting Party, and not by the Office.

610. The CHAIR thanked the Delegation of the Ukraine for introducing its proposal. He opened the discussion.

611. Ms. SCHMIDT (Germany) said that the Delegation of Germany was comfortable with the proposal made by the Delegation of the Ukraine.

612. Mrs. DAFAUCE MENÉNDEZ (Spain) said that the Delegation of Spain could also accept that proposal and even considered that it was an improvement, in technical terms, on the current wording.

613. Ms. ASPERGER (Austria) supported the proposal because of its linguistic merits. She held the view that it would enhance the clarity of Article 8(2)(c).

614. Mrs. MENJIVAR CORTÉS (El Salvador) said that her Delegation supported the proposal since it considered it to be a technical one.

615. Mr. OTIENO-ODEK (Kenya) expressed support for the proposal made by the Delegation of the Ukraine. He said that the proposal improved the consistency of subparagraphs (a), (b) and (c) of Article 8(2).

616. The CHAIR concluded that the proposal made by the Delegation of the Ukraine with regard to Article 8(2)(c) had been approved. He informed Main Committee I that there were no further proposals pending. With respect to Article 8(3)(c), there was one minor aspect which he wanted to indicate for the sake of transparency. In the course of the meetings of the Drafting Committee, the question had arisen as to whether it was advisable to use the word “notwithstanding” in combination with a reference to a certain provision of the Treaty. He recalled document TLT/R/DC/15 which contained a proposal by the Delegation of South Africa to add the word “notwithstanding” to several articles.

617. The CHAIR explained that, in this context, the Legal Counsel had informed the Drafting Committee that, in final clauses of international treaties, such as Articles 23 and 29 of the Revised TLT, it appeared to be indispensable to use the word “notwithstanding” for reasons of public international law. With respect to other provisions in the Treaty, such as Article 8(3)(c), however, the word “notwithstanding” would have no legal effect. The Chair noted that, accordingly, it was a question of drafting whether or not to use the expression. On this understanding, he concluded that the entire Article 8 could be sent to the Drafting Committee.

#### Rule 6: Details Concerning Communications

618. The CHAIR recalled that Rule 6 had already been under consideration in Main Committee I. He wondered whether there was a need for further discussions.

619. Mr. KHAN (Pakistan) indicated that he was fully comfortable with the substance of Rule 6. He held the view that, in the English version, the expression “earlier than the latter date” at the end of Article 6(2) was grammatically incorrect.

620. The CHAIR said that the Drafting Committee would be asked to clarify this issue. He concluded that Rule 6 could be sent to the Drafting Committee. He expressed his gratitude for the cooperative and constructive spirit and the sense of flexibility and compromise that had allowed Main Committee I to make good progress in the discussion of the substantive provisions of the Revised TLT.

Twelfth Meeting Monday, March 27, 2006 Afternoon
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621. The CHAIR referred to Agenda Item 11 of the Diplomatic Conference: Consideration of the Texts Proposed by the Main Committees. He noted that, before the Plenary could consider any text, some work still needed to be done. According to Rule 12(1) of the Rules of Procedure, Main Committee I was responsible for submitting for adoption by the Conference,

meeting in Plenary, texts concerning the substantive provisions of the Treaty, the regulations and any recommendation, resolution or agreed statement referred to in the first rule of procedures. The Chair noted that, after Main Committee I had discussed and agreed on the substantive provisions, it had sent the texts to the Drafting Committee for review. He then invited the Chair of the Drafting Committee to inform Main Committee I of the result of its work.

622. The Drafting Committee had held eight sessions between March 17 and 23 in order to examine the texts of the draft Revised TLT and the Regulations thereunder, submitted for consideration by Main Committee I. The Drafting Committee set down in writing the decisions taken by Main Committee I in respect of Articles 1 to 22 of the Treaty and all the Regulations thereunder.

623. In that regard, the Drafting Committee had completed the revision and alignment of the texts contained in the draft Treaty, which was currently included in document TLT/R/DC/24 of the current Conference series and in the draft Regulations included in document TLT/R/DC/25 of that series. The text which the Drafting Committee presented on that occasion included amendments to the Basic Proposal, as adopted by Main Committee I and verified by the Drafting Committee. Those changes concerned mainly the following articles: Article 1(xii) and (xiv), Article 3(1)(a)(x)-(xii), Article 4(1)(a)(i), Article 5(1)(a)(iv), Article 8(7), Article 13(2)(i) and Article 22(1)(a), and the following Rules: Rule 7(1)(iii), Rule 8 and Rule 10(1)(b). In addition to what had been said, it should be noted that two additional changes had been included, omitted from the documents containing the draft Treaty and draft Regulations respectively, in Article 8(2)(c) and Rule 9(1)(i), (2)(i) and (3)(a)(i). Those additions appeared as corrigenda in documents TLT/R/DC/24 Corr. and TLT/R/DC/25 Corr. respectively.

624. Finally, the Drafting Committee suggested to Main Committee I that it should consider including, as a title for Rule 2(3), the following, so that that paragraph did not remain without a title: "Other Means of Identification".

625. The Drafting Committee considered that the title would allow the paragraph to be complemented adequately.

626. In the performance of its mandate, in reflecting those changes in the texts presented to the Committee, the Drafting Committee had been particularly careful not to alter at all the substance of the decisions taken by Main Committee I.

627. As the Chair had reported everything to the Main Committee, it merely remained for him to thank the delegations which were members of the Drafting Committee for the excellent collaboration received which had been essential, together with the assistance provided by the International Bureau in support of the Chair's performance of his duties, as entrusted to him by the Conference.

628. The CHAIR thanked the Chair of the Drafting Committee for her report and turned to document TLT/R/DC/24 and its Corrigendum, document TLT/R/DC/24 Corr. He suggested submitting these documents to the Plenary. He noted that one question still needed to be resolved prior to concluding the work of the Committee. This was the written proposal contained in document TLT/R/DC/16, entitled "New Article to be Inserted in the Revised

Trademark Law Treaty”, a proposal submitted by the Delegation of Benin on behalf of the Group of LDCs. He called on the Delegation of Benin to make any additional remarks on this point.

629. Mr. AMEHOU (Benin) said that his Delegation had submitted a proposal with a view to it being included in the Treaty but added that, following negotiations and consideration of its concerns, he had decided to withdraw the proposal in question.

630. The CHAIR said that Main Committee I had decided to submit the text of the Treaty, as contained in document TLT/R/DC/24 and its Corrigendum to the Plenary for adoption. He then turned to document TLT/R/DC/25 and its Corrigendum, document TLT/R/DC/25 Corr. He noted that one additional point had been added in that document, to have the heading “Other Means of Identification” in Rule 2(3). He further noted that the Committee had decided to submit document TLT/R/DC/25 and its Corrigendum to the Plenary.

631. The CHAIR recalled that one additional document had been circulated, TLT/R/DC/26 containing the “Draft Resolution by the Diplomatic Conference Supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder”, a proposal that was presented in writing by all regional group coordinators on behalf of their respective regional groups. He called on one of the regional group coordinators to formally table the proposal.

632. Mr. AYALOGU (Nigeria), speaking on behalf of the regional group coordinators who represented their respective regional groups, said that the Draft Resolution was the result of long negotiations and consultations among the regional groups. He recalled that the initiative started as an attempt by the African Group to have, at the core, not only a Revised Treaty, but one that could be implemented and embraced by all groups. To establish a treaty process that would provide for support for the less endowed in fully implementing the Treaty and benefiting from what it offers in the IP and management process. He acknowledged that the elements included in the Resolution were not problem-free and some groups had voiced their concerns at various levels of the coordination process. He appreciated that all groups saw the need for the African Group to profile the issue of implementation, technical support and capacity building and on those grounds, they supported submitting the draft resolution to the Plenary.

633. The CHAIR thanked the Delegation of Nigeria for his introduction and explanation of this proposal that had been put together by the joint effort of all regional groups and their respective coordinators. He also thanked the Delegation of Nigeria for highlighting the value of the text.

634. Mr. GHORBANI (Islamic Republic of Iran), on behalf of the Asian Group, expressed appreciation for the good management of the formal and informal meetings carried out during the Conference. The Asian Group also appreciated the flexibility shown by all regional groups during the consultations. He supported the views expressed by the Delegation of Nigeria and hoped that all delegations would contribute to approving the text in the Plenary.

635. Mr. ADHIKARI (Nepal) said that he appreciated the efforts deployed and believed that the decision on this issue would be unanimous.



636. Mr. OMOROV (Kyrgyzstan) pointed out that the title of the Draft Resolution in Russian could be improved, so that it would correspond to the other languages. He also noted that he would submit in writing, small corrections to the text of the Regulations in the same language.

637. The CHAIR thanked the Delegation of Kyrgyzstan for its observation and assured it that the International Bureau would address those concerns.

638. He suggested submitting the draft Resolution, the text of which was identical with an informal document that had been the outcome of informal consultations, to the Plenary for adoption. In the absence of any delegation requesting the floor, he concluded that it was so decided.

639. He then noted that the work of Main Committee I had been concluded and thanked all delegations for their constructive support and collaboration.

640. The CHAIR closed the meeting.

MAIN COMMITTEE II OF THE DIPLOMATIC CONFERENCE FOR THE  
ADOPTION OF A REVISED TRADEMARK LAW TREATY

Chair: Mr. James Aggrey Otieno-Odek (Kenya)

Secretary: Mr. Edward Kwakwa (WIPO)

First Meeting Friday, March 17, 2006 Morning
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1. The CHAIR thanked the delegations for having entrusted to him the task of chairing Main Committee II, and considered it an honor for his country and a privilege for himself. He said that he hoped his Chairmanship would live up to the Delegation's expectations.

2. He noted that the task of Main Committee II was to deal with the other provisions of the Treaty, as contained in Articles 23 to 32 of the Basic Proposal (document TLT/R/DC/3).

Article 23: Assembly

3. The CHAIR turned to Article 23 and asked for comments from delegations.

4. Mr. PANAHİ AZAR (Islamic Republic of Iran) said that his Delegation was preparing proposals on Article 23 and thus he wished to reserve his position to come back to this provision at a later stage.

Article 24: International Bureau

5. The CHAIR opened the floor for comments on Article 24.

6. Mr. STEMMET (South Africa) said that, after consultations with the Legal Counsel of WIPO, the Delegation of South Africa had decided to withdraw its proposal in relation to Article 24(3)(a) and (c) to change the word "shall" for "may", as presented in document TLT/R/DC/15.

Article 25: Revision and Amendment

7. The CHAIR opened the floor for comments on Article 25.

8. Ms. LIEW (Singapore) said that the Delegation of Singapore wished to refer to the relationship between Articles 23 and 25. As currently drafted, Article 25(2)(a) provided that Article 23 dealing with the powers of the Assembly may be amended by the Assembly, and

Article 23(2), stated that the Assembly shall deal with matters concerning the development of the Treaty. At the same time, Article 25(1) provided that the Treaty may only be revised by a Diplomatic Conference, the convocation of which shall be decided by the Assembly.

9. She sought clarification as to whether there was a possibility of inconsistency between Articles 23 and 25. She asked whether with the powers vested in the Assembly under Articles 23(2)(i), and 25(2)(a), it could amend its own powers or revise the Treaty, as it was in charge of dealing with matters concerning the development of the Treaty. The Delegation of Singapore considered that this was perhaps not the intention of the provisions, but reading them together suggested some degree of inconsistency.

10. Mr. STEMMET (South Africa) referred to the written proposal submitted by the Delegation of South Africa, concerning Article 25(2)(a). The proposal consisted in adding at the beginning of that paragraph the phrase “Notwithstanding paragraph (1).” He explained that the addition was necessary to establish the link between Article 25 and Articles 23 and 24, particularly since paragraph (2)(a) of Article 25 seemed to be the exception to paragraph (1).

11. Mr. KWAKWA (WIPO) drew the attention of the Committee to the Notes on Article 25, contained in document TLT/R/DC/5. He then wondered whether the proposal by the Delegation of South Africa would address the concerns expressed by the Delegation of Singapore.

12. Ms. LIEW (Singapore) said that if the Assembly had the power to amend Article 23 in such a way as to give itself the ability to decide whether the Treaty could be revised by a Diplomatic Conference, that meant in an oblique manner, that the Assembly could amend the powers in Article 23 in such a way as to give itself the power to revise the Treaty. She believed that the words “notwithstanding” should rather be included in paragraph (1) and should read “notwithstanding paragraph (2)”, since that was the exceptional case.

13. Mr. KWAKWA (WIPO) explained that his understanding of the intervention made by the Delegation of Singapore was that the Delegation wished to make it clear that this Treaty can only be revised by the Diplomatic Conference with the exception of Articles 23 and 24. He said that delegations may wish to consider whether to insert in Article 25(1) the word “only” and then, in Article 25(2)(a) to start with the phrase proposed by the Delegation of South Africa “notwithstanding paragraph (1)...”.

14. Ms. BERESFORD (United States of America) said that while she did not have any specific comments regarding the proposals submitted by other delegations, the Delegation of South Africa had raised some issues on the relationship between Articles 23 and 25. She announced that the Delegation of the United States of America would present a written proposal on those articles.

15. Mr. PANAH AZAR (Islamic Republic of Iran) sought clarification from the International Bureau of WIPO regarding Article 25(2)(c), and in particular what would happen if in one State, the constitutional procedures were not finished and yet an amendment would enter into force because it was accepted by three-fourths of the Contracting Parties. He

considered that this could complicate the implementation of the amendment in question. He also suggested that instead of a three-fourths' majority, the requirement should be unanimity, since changes regarded the Treaty itself.

16. Mr. KWAKWA (WIPO) said that Article 25(2)(c) did not constitute new language in terms of WIPO-administered treaties. In fact, according to the provision, if the proposed amendments were accepted by three-fourths of the Member States, they would automatically bind all the WIPO Member States at the time that the amendment was accepted.

17. Mr. OMOROV (Kyrgyzstan), speaking on behalf of the Central Asian, Caucasus and Eastern European Group, supported the proposal made by the Delegation of South Africa. He also proposed deleting the reference to Article 23 in Article 25(2)(a) because Article 23 was important, since it described the work of the Assembly.

18. Mr. KWAKWA (WIPO), referring to the proposal made by the Delegation of Kyrgyzstan, said that deleting the reference to Article 23 in Article 25(2)(a) would mean that the Assembly could not change its own Rules of Procedure, which seemed to be an inflexible position.

#### Article 26: Becoming Party to the Treaty

19. The CHAIR opened the floor for comments on Article 26. He then noted that there no further comments on this provision.

#### Article 27: Application of the TLT 1994 and This Treaty

20. The CHAIR opened the floor for comments on Article 27.

21. Mr. PIAGET (Switzerland) said that Article 27 dealt with the application of the 1994 Treaty and with the application of and its relationship to the Revised TLT. His understanding of the Article was that there was no mutual relationship between the Contracting Parties in the TLT system. He specified that in the case in question the situation was not the same as that in relation to the Madrid system where such a mutual relationship actually existed. He considered that as soon as a party ratified the TLT, be it the 1994 version or the Revised TLT, that party was subject to the requirements of the Treaty and must, if it were part of a monistic system, simply apply the Treaty. If that Contracting Party provided for a dualistic system, it should incorporate the Treaty provisions in its own national regulations. In conclusion, he said that any owner might benefit, on the territory of a Contracting Party, from the effects of the TLT ratified by that Contracting Party, even if the country to which the owner was attached had not signed the Treaty. He said that a different conclusion might prove to be contrary to the principle of national treatment, and for that reason the Delegation of Switzerland hoped the International Bureau would provide certain clarifications as to the intended understanding of that provision.

22. Mr. KWAKWA (WIPO) explained that this provision was simply a restatement of public international law. It was not meant to be a normative provision, but one that addressed relations between parties to both treaties and parties to only one of them. However, if the sense of the Conference was that such a specific provision was not needed, it could be removed from the text.

Article 28 Entry into Force; Effective Date of Ratifications and Accessions

23. The CHAIR opened the floor for comments on Article 28. He then noted that there were no comments on this provision.

24. Mr. PANAH AZAR (Islamic Republic of Iran) requested a clarification as to the history of Article 28(2), which required the instruments of ratification or accession of only five States or intergovernmental organizations to bring the Treaty into force. He recalled that only five States or intergovernmental organizations could call for an Assembly to deal with matters concerning the Treaty.

Article 29: Reservations

25. The CHAIR opened the floor for comments on Article 29. He then noted that there were no comments on this provision. Regarding the proposal made by the Delegation of Japan, as contained in document TLT/R/DC/6, the Chair recalled that there was consensus in Main Committee I to draft that proposal as a transitional provision and to request the Drafting Committee to finalize the drafting and submit it to Main Committee II.

Article 30: Denunciation of the TreatyArticle 31: Languages of the Treaty; SignatureArticle 32: Depositary

26. The Chair opened the floor for comments on Articles 30, 31 and 32. He then noted that there were no comments on these provisions.

27. Mr. MTEZA (Zambia) noted that the Group of LDCs had submitted a proposal for a new article that should be placed in the Treaty.

28. The Chair adjourned the meeting.

Second Meeting Monday, March 20, 2006 Morning
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Article 23: Assembly

29. The CHAIR suggested to continue the discussion on Article 23.

30. Mr. GHORBANI (Islamic Republic of Iran) suggested to delete paragraph (2)(iv). He explained that the wording of this provision was extremely broad.

31. Mr. KWAKWA (WIPO) explained that this paragraph simply provided that the Assembly should perform such other functions as are appropriate under this Treaty. This wording was found in every other WIPO-administered treaty. However, the Conference could decide that this provision should not be included.
32. Mr. GHORBANI (Islamic Republic of Iran) said that his Delegation was flexible to agree on any language that could improve and narrow the effect of the provision.
33. Mr. RAGAB (Egypt) considered that the text of paragraph (2)(iv) needed to be clarified, because the parties could only agree to give very clear functions to the Assembly.
34. Mr. KHAN (Pakistan) said that the point raised by the Delegation of the Islamic Republic of Iran was reasonable and justified.
35. The CHAIR asked whether the Committee would agree to delete paragraph (2)(iv).
36. Mr. WARDLE (New Zealand) said that the text should be kept as it stood in the Basic Proposal, since it was similar to other WIPO-administered treaties and there was no evidence of any problems deriving from the implementation of that provision.
37. Mr. ARBLASTER (Australia) considered that there was no need to delete paragraph (2)(iv). He believed that it was better to keep the Treaty flexible and provide the Assembly with powers to adapt. For example the Assembly could decide on a particular measure to assist developing countries with the implementation of the Treaty. He said that although the language could be made more precise, it was better left unchanged.
38. Mr. MARTENS (Germany) supported the comments made by the Delegation of Australia and said that the language of Article 23(2)(iv) was found in the instruments of other international organizations. This concerned what was known as “residual powers” for the Assembly to perform its functions in a satisfactory manner. The Delegation of Germany was not aware of any difficulties arising from the implementation of this provision in the past. It did not seem to be a harmful provision nor one that could be against the interests of developing countries and LDCs.
39. Mr. SIMI (Samoa) supported the proposal made by the Delegation of New Zealand to maintain the text of the Basic Proposal. He said that deleting the provision, as suggested by the Delegation of the Islamic Republic of Iran would not serve any purpose other than unnecessarily limiting the functions of the Assembly. He held the view that the text was not vague and it allowed the necessary flexibility for the Assembly to determine what was appropriate in relation to the Treaty itself.
40. Mr. VARVESI (Italy) noted that sometimes general principles allowed flexibility, the effect of which was to give the Assembly powers that could not be provided for, and so he understood the position of the Delegate of Iran perfectly when the Delegate said that the Article was vague. He noted that the Article in question was vague on one point, i.e. when it stipulated “other functions”. He therefore proposed for those “other functions” either to specify them one by one, at the risk of forgetting some of them, or to leave the term “other functions”. He observed, however, that the Article was specific in that it gave powers to the Assembly and that was therefore the fundamental principle that should be respected.

41. Mrs. ROAD D'IMPERIO (Uruguay) said that her Delegation supported the retention of Article 23(2)(iv) since its wording did not contain any ambiguity. She considered that said Article was clear since the Assembly, in addition to its listed functions, had subsidiary functions within the context of the Treaty. She added that it should not be forgotten that those subsidiary or residual functions of the Assembly were conditional on those which corresponded to them, as stated by the provision under the Treaty, and that they would not go any further.

42. Mr. STEMMET (South Africa) supported the proposal to maintain the provision in the Treaty. He believed that it was positive to maintain uniformity in WIPO-administered treaties and he felt that the provision allowed the Assembly to have some policy space to consider such matters as they may arise.

43. Mr. RAGAB (Egypt) proposed to take the middle road since he considered that the provision was indeed vague and provided no link to define what those other functions were. He thus suggested adding language to the effect that the functions would lead to the accomplishment of the Treaty.

44. Mr. RUBIO ESCOBAR (Colombia) said that his Delegation also supported the retention of Article 23(2)(iv) for two important reasons: the first was because it believed that, as had been stated by the delegations that had spoken previously, a text of that kind did not cause any difficulty. He emphasized that in the other treaties administered by WIPO that had not generated any difficulty. Secondly, the Delegation believed that the Article contained no inaccuracies but rather a clarification in the sense that the residual and general clause of competence was assigned to the Assembly such that it could perform any appropriate function under the present Treaty. For those two reasons, he requested that Article 23(2)(iv) be retained.

45. Mr. REQUENA (France) said that in relation to the point being examined, he endorsed completely what had already been expressed by the Delegations of Australia, New Zealand and Italy. He said that his Delegation saw no particular difficulty with that provision which already existed in several treaties. For reasons of harmonization but also flexibility, it was recalled that the Assembly would have the power to define those administrative functions. In conclusion, he specified that his Delegation supported the retention of the provision.

46. Mr. GHORBANI (Islamic Republic of Iran) supported the proposal made by the Delegation of Egypt to find a middle way. He said that it was necessary to keep the flexibility provided in this Article and that he could suggest the appropriate language later.

47. Mr. BELFORT (Haiti) said that he wished the mechanism provided for in Article 23(2) and (4) to be retained because that was a conventional mechanism used in treaty law. Furthermore, those subparagraphs referred to the Assembly as a supreme authority and, since it was a treaty that would be approved by the Member States and the Assembly was made up of the Member States, he saw no contradiction in the wording of the Treaty. For that reason, his Delegation supported the mechanism provided for by those subparagraphs.

48. Mrs. MENJIVAR CORTÉS (El Salvador) said that her Delegation considered that the Article should be retained as it contained no ambiguity. It was a conventional treaty provision.

49. Mrs. RÍOS DE DAVIS (Panama) said that, in relation to Article 23(2)(iv), her Delegation supported retaining the Basic Proposal. She considered that the Article should remain as it stood, since it would allow other functions to be performed such that the Assembly could decide what was appropriate in each situation. She added that the provision was in other treaties and that it had not created any difficulties.

50. Mr. AL-MOHAMMED (Iraq) supported the proposal made by the Delegation of Egypt, which he considered was a compromise solution and encouraged that Delegation to submit a written proposal.

51. Mr. ARBLASTER (Australia) suggested postponing the discussion until the proposals by the Delegations of Egypt and the Islamic Republic of Iran were submitted.

52. Mrs. MOHAMED (Kenya) said that in principle, the position of the Delegation of Kenya was to maintain Article 23(2)(iv). However, as mentioned by the Delegation of Australia, it would be adequate to accord the Delegations of Egypt and the Islamic Republic of Iran an opportunity to submit their proposals.

53. Mr. NDINGA (Congo) wished to support the retention of the paragraph and said that he would also like the WIPO Secretariat, by way of example, to indicate whether the provision also appeared in the other treaties. He made that request in order to clarify matters for the other delegations which were perhaps reluctant to retain the provision in the Treaty.

54. Mr. DANILIUC (Republic of Moldova) said that the debate on Article 23(2)(iv) had yielded a number of ideas. However, in his view, the other functions referred to in that provision were those contemplated in paragraph (7) of Article 23. Therefore, he supported maintaining the text as it stood in the Basic Proposal.

55. Mrs. ESTUPIÑÁN BARRANTES (Ecuador), expressing the position of her Delegation, requested that Article 23(2)(iv) be retained, whereby the functions of the Assembly would be those corresponding to the Treaty, something which gave no room for ambiguity.

56. The CHAIR announced that, after consultations on Article 23(2)(iv), the following drafting had been agreed “to perform such other functions as are appropriate to implementing the provisions of this Treaty”.

57. Mr. GHORBANI (Islamic Republic of Iran), Mr. ARBLASTER (Australia), Mr. RAGAB (Egypt), and Mr. KHAN (Pakistan) supported the wording suggested by the Chair.

#### Article 25: Revision and Amendment

58. The CHAIR suggested to continue the discussion on Article 25. He asked the International Bureau of WIPO to brief the meeting on the proposals submitted by Delegations with regard to this provision.

59. Mr. KWAKWA (WIPO) noted that, at the previous meeting of the Committee, three proposals were submitted in relation to this Article, by the Delegations of Kyrgyzstan, South Africa and the United States of America. He noted that the proposal by the Delegation of



South Africa was consistent with the other two. However, the proposals of the United States of America and South Africa differed in that according to the former, the Assembly could only amend Article 23(2) dealing with the tasks of the Assembly, whereas according to the latter, it could only amend Article 24 dealing with the International Bureau.

60. The CHAIR asked the delegations concerned to present their proposals.

61. Ms. COTTON (United States of America) said that the Delegation of the United States of America explained its proposal on Article 25(2)(a), as reflected in document TLT/R/DC/17. She explained that the current text of Article 25(2)(a) read “Articles 23 and 24 may be amended by the Assembly” and said that the Delegation believed that formulation was unclear, because it did not refer to the procedures by which the Assembly could amend the Treaty and the procedures for the entry into force. She suggested first of all replacing the reference to Articles 23 and 24 for a reference to Article 23(2). The second proposal was to add language at the end of the first sentence in Article 25(2)(a) to read “in accordance with paragraph (2) of this Article” to clarify the way in which the Article can actually be amended by the Assembly. She noted that the special amendment procedures that were reflected in Article 25(2)(a), would be appropriate for certain administrative and technical provisions. However, it seemed unprecedented for these procedures to apply to critical provisions with a three-fourths’ vote and to enter into force after three-fourths ratifications had been received. Nevertheless, she recalled that, as the International Bureau had noted, it would be too inflexible if the Assembly could not amend its own procedures and this was the reason to retain Article 23(2). She further noted that this was in line with the Patent Law Treaty provisions, on which this text was modeled.

62. With respect to the deletion of Article 24, relating to the role of the International Bureau in the administration of the Treaty and the ability of the Assembly to amend that role, she noted that the Patent Law Treaty did not contain a similar provision. The Delegation of the United States of America found that it was unnecessary in the context of the Revised TLT. She noted that the role of the International Bureau of WIPO in administering the TLT was similar to its role in administering the PLT, and this contrasted with its role in the administration of the Geneva Act of The Hague Agreement or the Madrid Protocol.

63. Mr. WARDLE (New Zealand) said that the Delegation of New Zealand had looked at Article 25(2) in comparison with Article 19 of the PLT. He noted that, under the Revised TLT, the Assembly was provided with much broader amendment powers. His Delegation had presumed that some problems or issues had been raised under the PLT that would necessitate a departure from its provisions. He was interested to hear why the Revised TLT required a broader provision than the PLT.

64. Mr. KWAKWA (WIPO) said that similar language was found in the Madrid Protocol and in the Geneva Act of The Hague Agreement. However, as pointed out by the Delegation of the United States of America, the drafting could be closer to the PLT. He also noted that the addition of the sentence “in accordance with paragraph (2) of this Article” added clarity to the provision and was therefore welcome.

65. Mr. GHORBANI (Islamic Republic of Iran) thanked the Delegation of the United States of America for its proposal. He noted that, generally all articles of the Treaty should reflect a balance of interests. He further noted that in several instances, the International Bureau had

mentioned that the provisions were inspired in the corresponding PLT provisions or in provisions of other treaties. However, he believed that each treaty should stand on its own merits and should make sense as a package for all Member States. He highlighted the level of commitment that this proposal required from developing countries. According to his Delegation, this proposal would destroy the interests of developing countries and LDCs, at this point and in the future. This was the initial stage of harmonization for all matters relating to the future through the Assembly of the TLT.

66. Mr. ARBLASTER (Australia) said that throughout the preparatory work on the Revised TLT, the Delegation of Australia had sought to give the Assembly broader powers to amend detailed provisions. That was achieved by moving such provisions from the text of the Treaty to the Regulations. While his Delegation still preferred the Basic Proposal, because it provided maximum flexibility, it could support the proposal submitted by the Delegation of the United States of America.

67. The CHAIR asked the Delegation of the United States of America to further explain its proposal.

68. Ms. COTTON (United States of America) said that the Delegation of the United States of America proposed to amend Article 25(2)(a) to read “Article 23 may be amended by the Assembly in accordance with paragraph (2) of this Article”. Paragraphs (b) and (c) would remain unchanged. The wording “In accordance with paragraph (2) of this Article” was meant to bring in the procedures by which an amendment could be made by the Assembly. She recalled that Article 23(2) was the provision which allowed the Assembly to amend its own tasks, so that the Assembly could in fact amend its Rules of Procedure as needed. It did not appear necessary for the Assembly to be able to amend the rest of Articles 23 and 24, dealing with voting procedures and the tasks of the International Bureau of WIPO. In her opinion, the Revised TLT should be in line with Article 17 of the PLT, which did not contain those provisions.

69. Mr. GHORBANI (Islamic Republic of Iran) said that according to the Rules of Procedure of the Conference, the redrafted proposal by the Delegation of the United States of America should be submitted in writing. He also announced that his Delegation intended to submit a proposal to insert new wording between paragraphs (b) and (c).

70. Mr. STEMMET (South Africa) supported the amended proposal by the Delegation of the United States of America as stated orally.

71. Mr. ARBLASTER (Australia) supported the proposal by the Delegation of the United States of America. However, as a question of procedure, he held the view that the proposal by the Delegation of Kyrgyzstan should also be considered in this context as both proposals could be contradictory.

72. Mr. KWAKWA (WIPO) explained that the proposals submitted by the Delegations of Kyrgyzstan and the United States of America were in fact mutually exclusive.

73. Mr. WARDLE (New Zealand) wondered why the Assembly would need additional powers. He supported the proposal by the Delegation of the United States of America and held the view that the proposal by the Delegation of Kyrgyzstan would limit the powers of the Assembly to amend its own procedures.

74. Mr. MEJÍA GUEVARA (Honduras) said that the Delegation of Honduras supported in principle the proposal made by the Delegation of the United States of America, which included also Article 23(2)(iv). He believed that this text would provide the necessary flexibility to carry out other functions under the Treaty.

75. Mr. RAGAB (Egypt) said that removing the reference to Article 24 in Article 25(2)(a) simply meant that the highest body established by the Treaty could not change the provisions relating to the International Bureau. This left open the question as to how those provisions could be changed.

76. Mr. CARLSON (Sweden) said that the Delegation of Sweden would declare its position on this matter in due course.

77. Mr. GHORBANI (Islamic Republic of Iran) referred to the proposal made by the Delegation of Kyrgyzstan and said that Article 24 concerned the functions of the International Bureau of WIPO. He held the view that members of the Assembly should be able to broaden or narrow the functions of the International Bureau in order to facilitate the work of implementation of the Treaty and the regulations.

78. Mr. RUBIO ESCOBAR (Colombia) said that in accordance with the Basic Proposal, the only articles that could be amended by the Assembly were Articles 23 and 24 that dealt with the Assembly and the International Bureau. The amendments that were being presented, both by the Delegation of the United States of America and the Delegation of Kyrgyzstan, limited those amendments by the Assembly. In the proposal by the Delegation of the United States of America it was Article 25(2) and in the proposal by the Delegation of Kyrgyzstan it was paragraph 1 of Article 24. In his opinion, in order to take a decision it was useful to know what the motivation was for the Delegation of the United States of America to limit it to Article 25(2) and not as it was in the Basic Proposal.

79. Mrs. MOHAMED (Kenya) expressed support for the amended proposal presented by the Delegation of the United States of America. She noted, however, that her position would be guided by the position of the African Group.

80. Mr. ARBLASTER (Australia) explained that the Delegation of Australia accepted the proposal made by the Delegation of the United States of America to remove the ability of the Assembly to amend Article 24 because it was difficult to see what the Assembly would do by way of amendment. Both Article 23(2)(iv) and Article 24(5) had a similar provision, that the Assembly and the International Bureau, respectively, would perform such other functions as assigned to it under the Treaty. He noted that it was difficult to see why the Assembly would alter these provisions, because the Assembly had the role of providing guidance to the International Bureau so that it may carry out the tasks assigned to it.

81. Mr. JOSAPHAT (Haiti) said that she wished to obtain clarification from the Secretariat concerning Article 25(2). She said that Article 25(1) stated that the Treaty could be revised by a Diplomatic Conference and that the holding of such a Conference was decided by the Assembly. Furthermore, in paragraph (2)(a), it was stated that Articles 23 and 24 could be amended by the Assembly. She therefore wished to know whether the Assembly itself could amend Articles 23 and 24 or whether it was a Diplomatic Conference called by the Assembly which could make such an amendment. She said there appeared to be confusion in that regard.

82. Mr. KHAN (Pakistan) asked whether the Delegation of the United States of America could explain the rationale behind the proposed deletion of the reference to Article 24 in Article 25(2)(a).

83. Mr. GHORBANI (Islamic Republic of Iran) noted that he had submitted a proposal for changes in Article 25(b), which he would be ready to discuss once the proposals were made available to the Delegations.

84. Ms. COTTON (United States of America) said that the proposal of the United States of America was submitted at the Diplomatic Conference only because the final and administrative clauses of the Revised TLT had not been discussed throughout the seven sessions of the SCT but only at the latest sessions. She noted that the Delegation of the United States of America wished to provide additional clarifications concerning its proposal on Article 25(2)(a). She indicated that, according to the general rule contained in the Vienna Convention on the Law of Treaties, parties could not be bound by an amendment unless they agreed to that amendment. Article 25(2)(c) provided that an amendment could be adopted by three-fourths of the members present during the amendment procedure. That meant that one fourth of the members that were not present and did not agree to the amendment could still be bound by it.

85. With regard to the voting provisions in Article 23, she felt that it was important to narrow the scope of the provision contained in Article 25(2)(a), so that the Assembly could not amend critical voting provisions or have the ability to make amendments enter into force in spite of the objection of one-fourth of the members present. With regard to Article 24, on the role of the International Bureau, she noted that given the nature of this Treaty and the limited role that the International Bureau of WIPO would play in the administration of the Treaty, in contrast to the Madrid Protocol, or the Hague Agreement, the Assembly did not need to amend the tasks of the International Bureau. She also noted that the Secretariat had indicated several times that when negotiating new treaties, the administrative clauses from previous treaties were used as a basis for the start of negotiations. With those ideas in mind, the Delegate of the United States of America preferred to keep the administrative clauses, and in particular Article 25(2)(a) as narrow as possible. She said that these provisions would set a precedent for the future and it was not appropriate to give the Assembly expansive powers when they were not needed.

86. Mr. JOSAPHAT (Haiti) confirmed that it was in fact an explanation that she was seeking from the Secretariat in relation to the first question that she had raised. She asked whether it was usual in relation to treaties for an Assembly to be authorized to amend articles that had been adopted within the framework of a Diplomatic Conference.

87. Mr. KWAKWA (WIPO) referred to the question raised by the Delegation of Haiti and confirmed that if Articles 23 and 24 remained in the text of Article 25(2)(a), the provisions relating to the Assembly and the International Bureau could be amended by the Assembly. This provision was not exceptional and existed in other WIPO-administered treaties.

88. Mr. OMOROV (Kyrgyzstan) said that with regard to the reference to Article 25, it was important to differentiate the specific role of the International Bureau of WIPO, as stated in Article 25(2) from other global questions which needed to be decided by a Diplomatic Conference.

89. Mr. RAGAB (Egypt) considered that Article 23 concerned the normal powers of the Assembly and therefore this matter needed to be decided by a Diplomatic Conference. However, a change in the Rules of Procedure of the Assembly could be decided by the Assembly itself. With regard to Article 24, the International Bureau of WIPO was a technical secretariat and it seemed logical that the provisions concerning that Secretariat could be amended by the Assembly.

90. Mr. WARDLE (New Zealand) supported the proposal made by the Delegation of the United States of America to limit the powers of the Assembly to amend Article 23(2). He noted that new WIPO treaties were modeled on previous treaties. Therefore, caution should be exercised to change the powers of the International Bureau, since any such change could have the power to influence WIPO's overall budget.

91. Mr. GHORBANI (Islamic Republic of Iran) supported the views expressed by the Delegation of Egypt.

Article 28: Entry into Force; Effective Date of Ratifications and Accessions

92. Mr. GHORBANI (Islamic Republic of Iran) said that according to Article 28, the Treaty would come into force after five States or intergovernmental organizations had deposited their instruments of ratification or accession. He expressed concern that such a low number of States could decide the convocation of a Diplomatic Conference.

93. The CHAIR adjourned the meeting.

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94. Mr. KWAKWA (WIPO) called on Mr. James OTIENO-ODEK (Kenya), Chair of Main Committee II to preside the meeting.

95. The CHAIR reconvened the meeting of Main Committee II and called on the Chair of the Drafting Committee to present her report with respect to Articles 23 to 32 of the Treaty.

(Uruguay, as Chair of the Drafting Committee)

96. The CHAIR took the opportunity to congratulate the Drafting Committee for its work and for the report, which truly reflected the deliberations and decisions of Main Committee II. He asked the Committee whether he could submit the text of Articles 23 to 32 for approval by the Plenary. He noted that the Committee had approved the submission of that text and closed the meeting.

97. Mr. KWAKWA (WIPO) announced that the Plenary would reconvene to deal with Agenda Items 11, 13 and 14. He also announced that the credentials committee would hold a second meeting immediately after the Plenary.



## **PARTICIPANTS**

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