

專利法條約及其施行細則

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Patent Law Treaty

專利法條約

(adopted at Geneva on June 1, 2000)

(二 000 年六月一日於日內瓦通過)

Article 1

Abbreviated Expressions

第一條 簡稱用語

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

除另有明確說明外，在本條約中：

- (i.) “Office” means the authority of a Contracting Party entrusted with the granting of patents or with other matters covered by this Treaty;
「局」，指受締約會員委託授與專利或執行本條約所涉其他事務之機關；
- (ii.) “application” means an application for the grant of a patent, as referred to in Article 3;
「申請」，指第三條所稱之授與專利之申請；
- (iii.) “patent” means a patent as referred to in Article 3;
「專利」，指第三條所稱之專利；
- (iv.) references to a “person” shall be construed as including, in particular, a natural person and a legal entity;
有關「人」之敘述，應特別解釋為包括自然人與法人；
- (v.) “communication” means any application, or any request, declaration, document, correspondence or other information relating to an application or patent, whether relating to a procedure under this Treaty or not, which is filed with the Office;
「通訊」，指向局提出之任何有關申請案或專利之申請、請求、聲明、文件、信件或其他資訊，不論其與本條約規定之程序是否有

關；

- (vi.) “records of the Office” means the collection of information maintained by the Office, relating to and including the applications filed with, and the patents granted by, that Office or another authority with effect for the Contracting Party concerned, irrespective of the medium in which such information is maintained;
「局之紀錄」，指局所保存的資訊，該資訊涉及與包括向局或其他對締約會員產生效力之局所提出之申請案及授與之專利，而不論其所存在的媒體為何；
- (vii.) “recording” means any act of including information in the records of the Office;
「記載」，指將資訊匯集於局之紀錄中之任何行為；
- (viii.) “applicant” means the person whom the records of the Office show, pursuant to the applicable law, as the person who is applying for the patent, or as another person who is filing or prosecuting the application;
「申請人」，指局之紀錄所顯示，依可適用之法律規定，為專利申請人，或其他提出申請案或執行申請之人；
- (ix.) “owner” means the person whom the records of the Office show as the owner of the patent;
「專利權人」，指局之紀錄顯示為專利權人之之人；
- (x.) “representative” means a representative under the applicable law;
「代理人」，指依可適用法律所稱之代理人；
- (xi.) “signature” means any means of self-identification;
「簽名」，指自我身分證明之任何方法；
- (xii.) “a language accepted by the Office” means any one language accepted by the Office for the relevant procedure before the Office;
「局所接受之語言」，指在局為相關程序，而為局所接受之任何一

種語言；

- (xiii.) “translation” means a translation into a language or, where appropriate, a transliteration into an alphabet or character set, accepted by the Office;
「譯本」，指翻譯成為一種局所接受之語言，或在適當情況下，音譯成其所接受字母或字集之譯文；
- (xiv.) “procedure before the Office” means any procedure in proceedings before the Office with respect to an application or patent;
「在局進行之程序」，指在局進行之任何有關申請或專利之程序；
- (xv.) except where the context indicates otherwise, words in the singular include the plural, and vice versa, and masculine personal pronouns include the feminine;
除另有其他規定者外，單數之字包括複數，反之亦然，且男性人稱代名詞包括女性；
- (xvi.) “Paris Convention” means the Paris Convention for the Protection of Industrial Property, signed on March 20, 1883, as revised and amended;
「巴黎公約」，指一八八三年三月二十日簽署並經修正與增修之保護工業財產權巴黎公約；
- (xvii.) “Patent Cooperation Treaty” means the Patent Cooperation Treaty, signed on June 19, 1970, together with the Regulations and the Administrative Instructions under that Treaty, as revised, amended and modified;
「專利合作條約」，指一九七〇年六月十九日簽署並經修正、增修及修訂之專利合作條約，及依該條約所定之施行細則及行政指令；
- (xviii.) “Contracting Party” means any State or inter-governmental organization that is party to this Treaty;
「締約會員」，指成為本條約會員之任何國家或政府間之組織；
- (xix.) “applicable law” means, where the Contracting Party is a State,

the law of that State and, where the Contracting Party is an intergovernmental organization, the legal enactments under which that intergovernmental organization operates;
「可適用之法律」，在締約會員為一國家者，指其國家之法律，在締約會員為一政府間之組織者，指該政府間之組織據以運作之法規；

- (xx.) “instrument of ratification” shall be construed as including instruments of acceptance or approval;
「批准書」，應解釋為包括承諾或認可之文書；
- (xxi.) “Organization” means the World Intellectual Property Organization;
「本組織」，指世界智慧財產權組織；
- (xxii.) “International Bureau” means the International Bureau of the Organization;
「國際局」，指本組織之國際局；
- (xxiii.) “Director General” means the Director General of the Organization.
「秘書長」，指本組織之秘書長。

Article 2 General Principles

第二條 通則

- (1) [*More Favorable Requirements*]
〔更有利之要件〕

A Contracting Party shall be free to provide for requirements which, from the viewpoint of applicants and owners, are more favorable than the requirements referred to in this Treaty and the Regulations, other than Article 5.

除第五條規定以外，締約會員可自由規定，由申請人或專利權人觀點，比本條約及施行細則更有利之要件。

- (2) [No Regulation of Substantive Patent Law]
〔無實質專利法之規定〕

Nothing in this Treaty or the Regulations is intended to be construed as prescribing anything that would limit the freedom of a Contracting Party to prescribe such requirements of the applicable substantive law relating to patents as it desires.

本條約或施行細則內之任何規定均不應解釋為限制締約會員依據其意思，制定其有關專利之可適用實質專利法之要件之自由。

Article 3

Applications and Patents to Which the Treaty Applies

第三條 本條約所適用申請及專利

- (1) [Applications]
〔申請〕

- (a) The provisions of this Treaty and the Regulations shall apply to national and regional applications for patents for invention and for invention and for patents of addition, which are filed with or for the Office of a Contracting Party, and which are:
- 本條約及施行細則之規定，應適用於已向或為向締約會員之局提出請求授與發明專利及追加專利之國內及區域專利申請案，且此申請屬於：
- (i) types of applications permitted to be filed as international applications under the Patent Cooperation Treaty;
依專利合作條約規定允許以國際申請案提出之申請類型；
 - (ii) divisional applications of the types of applications referred to in item (i), for patents for invention or for patents of addition, as referred to in Article 4G(1) or (2) of the Paris Convention.
第 i 目所稱之發明專利或追加專利的分割申請案，該分割申請案係依巴黎公約第四條 G 項第一款或第二款規定所提出者。
- (b) Subject to the provisions of the Patent Cooperation Treaty, the

provisions of this Treaty and the Regulations shall apply to international applications, for patents for invention and for patents of addition, under the Patent Cooperation Treaty:

於受專利合作條約規定拘束之前提下，關於下列事項，本條約及施行細則之規定應適用於依專利合作條約提出之發明專利國際申請案及追加專利國際申請案：

- (i) in respect of the time limits applicable under Articles 22 and 39(1) of the Patent Cooperation Treaty in the Office of a Contracting Party;
在締約會員之局依專利合作條約第二十二條及第三十九條第一項規定所適用之期限；
- (ii) in respect of any procedure commenced on or after the date on which processing or examination of the international application may start under Article 23 or 40 of that Treaty.
依該條約第二十三條或第四十條規定，得進行處理或審查該國際申請案之日或該日之後開始之任何程序。

(2) [Patents]
〔專利〕

The provisions of this Treaty and the Regulations shall apply to national and regional patents for invention, and to national and regional patents of addition, which have been granted with effect for a Contracting Party.
本條約及施行細則之規定，適用於已授與並對締約會員生效之國家及區域發明專利，以及國家及區域追加專利。

Article 4 Security Exception

第四條 基於安全考量之例外

Nothing in this Treaty and the Regulations shall limit the freedom of a Contracting Party to take any action it deems necessary for the preservation of essential security interests.

本條約或施行細則之內容不得限制締約會員為保護基本安全利益而採取其視為

必要措施的自由。

Article 5 Filing Date

第五條 申請日

(1) [Elements of Application]

[申請之事項]

- (a) Except as otherwise prescribed in the Regulations, and subject to paragraphs (2) to (8), a Contracting Party shall provide that the filing date of an application shall be the date on which its Office has received all of the following elements, filed, at the option of the applicant, on paper or as otherwise permitted by the Office for the purposes of the filing date:

除於施行細則中另有規定外，依第二項至第八項規定，締約會員應規定申請案之申請日應係其局收到依申請人選擇，以書面或其他為申請日之目的而為該局所允許方式提交下列所有事項：

- (i) an express or implicit indication to the effect that the elements are intended to be an application;
以明示或默示並足以顯示該事項係有意發生申請案效力；
- (ii) indications allowing the identity of the applicant to be established or allowing the applicant to be contacted by the Office;
可確認申請人身分或可為該局與申請人聯繫之說明；
- (iii) a part which on the face of it appears to be a description.
從外觀上可判斷其一部分為發明說明。

- (b) A Contracting Party may, for the purposes of the filing date, accept a drawing as the element referred to in subparagraph (a)(iii).
締約會員得為申請日之目的，接受將圖式作為第 a 款第 iii 目所稱之事項；

- (c) For the purposes of the filing date, a Contracting Party may require both information allowing the identity of the applicant to be established and information allowing the applicant to be contacted by the Office, or it may accept evidence allowing the identity of the applicant to be established or allowing the applicant to be contacted by the Office, as the element referred to in subparagraph (a)(ii).
為申請日之目的，締約會員得要求同時提供可確認申請人身分之資訊與可作為該局與申請人聯繫之資訊，或其得接受可確認申請人身分或可作為該局與申請人聯繫之證明，作為第 a 款第 ii 目所稱之事項。

(2) [Language]

[語言]

- (a) A Contracting Party may require that the indications referred to in paragraph (1)(a)(i) and (ii) be in a language accepted by the Office.
締約會員得要求第一項第 a 款第 i 目及第 ii 目所稱之說明以該局所接受之一種語言為之。
- (b) The part referred to in paragraph (1)(a)(iii) may, for the purposes of the filing date, be filed in any language.
第一項第 a 款第 iii 目所定之部分，得為申請日之目的，以任何語言提出申請。

(3) [Notification]

[通知]

Where the application does not comply with one or more of the requirements applied by the Contracting Party under paragraphs (1) and (2), the Office shall, as soon as practicable, notify the applicant, giving the opportunity to comply with any such requirement, and to make observations, within the time limit prescribed in the Regulations.
申請不符合締約會員依第一項及第二項規定適用之一項或多項要件者，該局應儘可能迅速通知申請人，並在施行細則規定之期限內，給予符合任何此等要件及表示意見之機會。

(4) [Subsequent Compliance with Requirements]

[嗣後符合要件]

- (a) Where one or more of the requirements applied by the Contracting Party under paragraphs (1) and (2) are not complied with in the application as initially filed, the filing date shall, subject to subparagraph (b) and paragraph (6), be the date on which all of the requirements applied by the Contracting Party under paragraphs (1) and (2) are subsequently complied with.

最初提出申請時，如不符合締約會員依第一項及第二項規定適用之一項或多項要件，該申請日應為嗣後符合締約會員依第一項及第二項規定適用之所有要件之日。但第 b 款及第六項另有規定者，不在此限。

- (b) A Contracting Party may provide that, where one or more of the requirements referred to in subparagraph (a) are not complied with within the time limit prescribed in the Regulations, the application shall be deemed not to have been filed. Where the application is deemed not to have been filed, the Office shall notify the applicant accordingly, indicating the reasons therefor.

第 a 款規定之一項或多項要件未於施行細則規定之期限內符合者，締約會員得規定該申請應視為未提出。該申請視為未提出者，該局應通知申請人並說明理由。

- (5) [Notification Concerning Missing Part of Description or Drawing]
〔欠缺部分發明說明或圖式之通知〕

Where, in establishing the filing date, the Office finds that a part of the description appears to be missing from the application, or that the application refers to a drawing which appears to be missing from the application, the Office shall promptly notify the applicant accordingly.

於確認申請日時，該局如發現申請中一部分發明說明有所欠缺者，或該申請述及之圖式於申請中欠缺，該局應迅速通知申請人。

- (6) [Filing Date Where Missing Part of Description or Drawing Is Filed]
〔欠缺部分發明說明或圖式之申請的申請日〕

- (a) Where a missing part of the description or a missing drawing is filed with the Office within the time limit prescribed in the Regulations, that part of the description or drawing shall be included in the application, and, subject to subparagraphs (b) and (c), the filing date shall be the date on which the Office has received that part of

the description or that drawing, or the date on which all of the requirements applied by the Contracting Party under paragraphs (1) and (2) are complied with, whichever is later.

於施行細則規定之期限內，如向該局提出欠缺的部分發明說明或欠缺的圖式，該部分的發明說明或圖式應包含於申請案者，申請日應為該局接獲該部分之發明說明或該圖式之日，或以符合締約會員依第一項及第二項規定適用之所有要件之日，以日期較晚者為準。但第 b 款及第 c 款另有規定者，不在此限。

- (b) Where the missing part of the description or the missing drawing is filed under subparagraph (a) to rectify its omission from an application which, at the date on which one or more elements referred to in paragraph (1)(a) were first received by the Office, claims the priority of an earlier application, the filing date shall, upon the request of the applicant filed within a time limit prescribed in the Regulations, and subject to the requirements prescribed in the Regulations, be the date on which all the requirements applied by the Contracting Party under paragraphs (1) and (2) are complied with.

依第 a 款所定提出欠缺之部分發明說明或欠缺之圖式，如係為補正在該局首次收受依第一項第 a 款規定之一項或多項要件所提出申請案之遺漏，且該申請案據一先申請案（優先權基礎案）主張優先權者，經申請人於施行細則規定期限內提出請求，並符合施行細則規定要件之前提下，其申請日應為符合該締約會員依第一項及第二項規定適用之所有要件之日。

- (c) Where the missing part of the description or the missing drawing filed under subparagraph (a) is withdrawn within a time limit fixed by the Contracting Party, the filing date shall be the date on which the requirements applied by the Contracting Party under paragraphs (1) and (2) are complied with.

依第 a 款所定提出欠缺之部分發明說明或欠缺之圖式，於締約會員所定之期限內撤回者，申請日應為符合該締約會員依第一項及第二項規定所適用要件之日。

- (7) [Replacing Description and Drawings by Reference to a Previously Filed Application]

[參照先前提出之申請而取代發明說明及圖式]

- (a) Subject to the requirements prescribed in the Regulations, a reference, made upon the filing of the application, in a language accepted by the Office, to a previously filed application shall, for the purposes of the filing date of the application, replace the description and any drawings.

除依施行細則規定之要件外，提出申請案時，以該局接受之一種語言寫明參照一先前所提出申請者，為該申請案的申請日之目的，該參照應取代發明說明及任何圖式。

- (b) Where the requirements referred to in subparagraph (a) are not complied with, the application may be deemed not to have been filed. Where the application is deemed not to have been filed, the Office shall notify the applicant accordingly, indicating the reasons therefor.

不符合第 a 款規定之要件者，該申請得視為未提出。該申請視為未提出者，該局應通知申請人並說明理由。

(8) [Exceptions]

[例外]

Nothing in this Article shall limit:

本條不應為下列限制：

- (i) the right of an applicant under Article 4G(1) or (2) of the Paris Convention to preserve, as the date of a divisional application referred to in that Article, the date of the initial application referred to in that Article and the benefit of the right of priority, if any;

申請人依巴黎公約第四條 G 項第一款或第二款保留該條所稱之首次申請日作為該條所稱之分割申請日之權利，及如有主張優先權情事，保留優先權利益之權利；

- (ii) the freedom of a Contracting Party to apply any requirements necessary to accord the benefit of the filing date of an earlier application to an application of any type prescribed in the Regulations.

締約會員為符合施行細則中規定之任何類型申請的先申請案申

請日之利益，所適用任何必要之要件之自由。

Article 6 Application

第六條 申請

(1) [Form or Contents of Application]

〔申請之形式或內容〕

Except where otherwise provided for by this Treaty, no Contracting Party shall require compliance with any requirement relating to the form or contents of an application different from or additional to:

除本條約另有規定外，締約會員不得要求不同於或超出於下列有關符合申請之形式或內容之要件：

- (i) the requirements relating to form or contents which are provided for in respect of international applications under the Patent Cooperation Treaty;
專利合作條約對國際申請案所規定有關形式或內容之要件；
- (ii) the requirements relating to form or contents compliance with which, under the Patent Cooperation Treaty, may be required by the Office of, or acting for, any State party to that Treaty once the processing or examination of an international application, as referred to in Article 23 or 40 of the said Treaty, has started;
一旦依專利合作條約第二十三條或第四十條開始對國際申請案進行處理或審查，該條約締約國的局或代表締約國的機構得依該條約規定要求之有關形式或內容之要件；
- (iii) any further requirements prescribed in the Regulations.
施行細則中規定之其他要件。

(2) [Request Form]

〔請求書格式〕

- (a) A Contracting Party may require that the contents of an application which correspond to the contents of the request of an international application under the Patent Cooperation Treaty be presented on a request Form prescribed by that Contracting Party. A Contracting Party may also require that any further contents allowed under paragraph (1)(ii) or prescribed in the Regulations pursuant to paragraph (1)(iii) be contained in that request Form.

締約會員得要求與專利合作條約所要求之國際申請案相符合之內容，以其所規定之請求書格式提出。締約會員亦得要求將第一項第 ii 目所准許或依據第一項第 iii 目於施行細則中規定之其他要件，包含於該請求書格式中。

- (b) Notwithstanding subparagraph (a), and subject to Article 8(1), a Contracting Party shall accept the presentation of the contents referred to in subparagraph (a) on a request Form provided for in the Regulations.

儘管有第 a 款規定，及第八條第一項規定，締約會員應接受第 a 款所述之內容依施行細則中規定之請求書格式提出。

(3) [Translation]

[譯本]

A Contracting Party may require a translation of any part of the application that is not in a language accepted by its Office. A Contracting Party may also require a translation of the parts of the application, as prescribed in the Regulations, that are in a language accepted by the Office, into any other languages accepted by that Office.

締約國得要求任何申請之部分，非使用其所屬局接受之語言者，提出譯本。締約會員亦得要求使用該局接受之語言、為施行細則所規定之申請部分，提出為該局所接受其他語言之譯本。

(4) [Fees]

[費用]

A Contracting Party may require that fees be paid in respect of the application. A Contracting Party may apply the provisions of the Patent Cooperation Treaty relating to payment of application fees.

締約會員得就相關申請，要求繳納費用。締約會員得適用專利合作條約有關申請費用繳納之規定。

(5) [Priority Document]
〔優先權文件〕

Where the priority of an earlier application is claimed, a Contracting Party may require that a copy of the earlier application, and a translation where the earlier application is not in a language accepted by the Office, be filed in accordance with the requirements .

據先申請案主張優先權者，締約會員得依施行細則中規定之要件，要求提出先申請案之影本，及該先申請案使用非為該局所接受之語言者，提出其譯本。

(6) [Evidence]
〔證據〕

A Contracting Party may require that evidence in respect of any matter referred to in paragraph (1) or (2) or in a declaration of priority, or any translation referred to in paragraph (3) or (5), be filed with its Office in the course of the processing of the application only where that Office may reasonably doubt the veracity of that matter or the accuracy of that translation.

締約會員僅就在其局對第一項或第二項所定事項或優先權聲明之真實性，或依第三項或五項送達譯本之正確性有合理懷疑時，始得要求在處理申請之過程中，向該局提送該事項或譯本之證據。

(7) [Notification]
〔通知〕

Where one or more of the requirements applied by the Contracting Party under paragraphs (1) to (6) are not complied with, the Office shall notify the applicant, giving the opportunity to comply with any such requirement, and to make observations, within the time limit prescribed in the Regulations.

不符合締約會員依第一項至第六項規定，所適用之一項或多項要件者，該局應通知申請人，在施行細則規定之期限內，給與符合任何要件及表示意見之機會。

(8) [Non-Compliance with Requirements]

[不符合要件]

- (a) Where one or more of the requirements applied by the Contracting Party under paragraphs (1) to (6) are not complied with within the time limit prescribed in the Regulations, the Contracting Party may, subject to subparagraph (b) and Articles 5 and 10, apply such sanction as is provided for in its law.

在施行細則規定之期限內，不符合締約會員依第一項至第六項規定所適用之一項或多項要件者，除第 b 款、第五條及第十條之規定外，締約會員得適用依其法律所規定之罰則。

- (b) Where any requirement applied by the Contracting Party under paragraph (1), (5) or (6) in respect of a priority claim is not complied with within the time limit prescribed in the Regulations, the priority claim may, subject to Article 13, be deemed non-existent. Subject to Article 5(7)(b), no other sanctions may be applied.

在施行細則規定之期限內，不符合締約會員依第一項、第五項或第六項規定所適用任何有關優先權主張之要件者，除第十三條另有規定，從其規定外，其優先權主張得視為不存在。除依第五條第七項第 b 款規定外，不適用其他罰則。

Article 7 Representation

第七條 代理

(1) [Representatives]

[代理人]

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

締約會員得要求，為在該局進行任何程序之目的而指定之代理人：

- (i) have the right, under the applicable law, to practice before the Office in respect of applications and patents;

有權依可適用之法律規定，於該局進行有關申請及專利之業務；

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

提供在該締約會員所屬領域之地址作為該代理人之地址。

- (b) Subject to subparagraph (c), 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, owner or other interested person who appointed that representative.

除依第 c 款規定外，由符合締約會員依第 a 款規定所適用要件之代理人所作出或與其有關之向該局進行任何程序之行為，應具有委任該代理人之申請人、專利權人或其他利害關係人所為或與其有關行為之效力。

- (c) A Contracting Party may provide that, in the case of an oath or declaration or the revocation of a power of attorney, the signature of a representative shall not have the effect of the signature of the applicant, owner or other interested person who appointed that representative.

締約會員得就宣誓、聲明或撤銷委任事項，規定代理人之簽名不應具有委任該代理人之申請人、專利權人或其他利害關係人簽名效力。

(2) [Mandatory Representation]

[必須之代理人]

- (a) A Contracting Party may require that an applicant, owner or other interested person appoint a representative for the purposes of any procedure before the Office, except that an assignee of an application, an applicant, owner or other interested person may act himself before the Office for the following procedures:

締約會員得要求申請人、專利權人或其他利害關係人為進行該局之任何程序之目的，委任代理人。但下列程序，申請之受讓人、申請人、專利權人或其他利害關係人得本人為之：

- (i) the filing of an application for the purposes of the filing date;

為申請日之目的，提出申請；

- (ii) the mere payment of a fee;
僅為繳納費用；
- (iii) any other procedure as prescribed in the Regulations;
施行細則規定之任何其他程序；
- (iv) the issue of a receipt or notification by the Office in respect of any procedure referred to in items (i) to (iii).
有關依第 i 目至第 iii 目所定之任何程序，該局所出具收據或發出通知。

- (b) A maintenance fee may be paid by any person.
維護費得由任何人繳納。

(3) [Appointment of Representative]
〔代理人之委任〕

A Contracting Party shall accept that the appointment of the representative be filed with the Office in a manner prescribed in the Regulations.

締約會員應接受依施行細則規定方式向該局提出代理人之委任。

(4) [Prohibition of Other Requirements]
〔其他要件之禁止〕

No Contracting Party may require that formal requirements other than those referred to in paragraphs (1) to (3) be complied with in respect of the matters dealt with in those paragraphs, except where otherwise provided for by this Treaty or prescribed in the Regulations.

除本條約或施行細則另有其他規定外，締約會員不得對第一項至第三項所定之相關事項，要求符合各該項規定以外之形式要件。

(5) [Notification]
〔通知〕

Where one or more of the requirements applied by the Contracting

Party under paragraphs (1) to (3) are not complied with, the Office shall notify the assignee of the application, applicant, owner or other interested person, giving the opportunity to comply with any such requirement, and to make observations, within the time limit prescribed in the Regulations.

不符合締約會員依第一項至第三項規定所適用之一項或多項要件者，該局應通知申請之受讓人、申請人、專利權人或其他利害關係人，在施行細則規定之期限內，給與符合任何該等要件及表示意見之機會。

(6) [Non-Compliance with Requirements]
〔不符合要件〕

Where one or more of the requirements applied by the Contracting Party under paragraphs (1) to (3) are not complied with within the time limit prescribed in the Regulations, the Contracting Party may apply such sanction as is provided for in its law.

在施行細則規定之期限內，不符合締約會員依第一項至第三項規定所適用之一項或多項要件者，締約會員得適用依其法律所規定之罰則。

Article 8 Communications; Addresses

第八條 通訊；地址

(1) [Form and Means of Transmittal of Communications]
〔通訊傳送之形式及方法〕

- (a) Except for the establishment of a filing date under Article 5(1), and subject to Article 6(1), the Regulations shall, subject to subparagraphs (b) to (d), set out the requirements which a Contracting Party shall be permitted to apply as regards the form and means of transmittal of communications.

除第五條第一項確立申請日及第六條第一項另有規定外，施行細則中應就除第 b 款至第 d 款規定以外，規定允許締約會員有關通訊傳送之形式或方法適用之要件。

- (b) No Contracting Party shall be obliged to accept the filing of

communications other than on paper.

締約會員無接受以書面形式以外所提出通訊之義務。

- (c) No Contracting Party shall be obliged to exclude the filing of communications on paper.

締約會員無排除以書面形式提出通訊之義務。

- (d) A Contracting Party shall accept the filing of communications on paper for the purpose of complying with a time limit.

締約會員應接受為符合期限之目的而以書面形式提出之通訊。

(2) [Language of Communications]

[通訊語言]

A Contracting Party may, except where otherwise provided for by this Treaty or the Regulations, require that a communication be in a language accepted by the Office.

除本條約或施行細則另有其他規定外，締約會員得要求通訊使用一種為該局所接受之語言。

(3) [Model International Forms]

[示範之國際表格]

Notwithstanding paragraph (1)(a), and subject to paragraph (1)(b) and Article 6(2)(b), a Contracting Party shall accept the presentation of the contents of a communication on a Form which corresponds to a Model International Form in respect of such a communication provided for in the Regulations, if any.

儘管有第一項第 a 款規定，及第一項第 b 款及第六條第二項第 b 款規定外，締約會員應接受依施行細則規定有關通訊，而以符合示範之國際表格（若有的話）形式所提出此等通訊內容。

(4) [Signature of Communications]

[通訊之簽名]

- (a) Where a Contracting Party requires a signature for the purposes of any communication, that Contracting Party shall accept any signature that complies with the requirements prescribed in the

Regulations.

締約會員要求為任何通訊之目的應簽名者，締約會員應接受任何符合施行細則所定要件之簽名。

- (b) No Contracting Party may require the attestation, notarization, authentication, legalization or other certification of any signature which is communicated to its Office, except in respect of any quasi-judicial proceedings or as prescribed in the Regulations.
除任何有關準司法程序或施行細則中規定者外，締約會員不得對傳送給其局之簽名要求任何證明、公證書、鑑定書、法定認可或其他證明。
- (c) Subject to subparagraph (b), a Contracting Party may require that evidence be filed with the Office only where the Office may reasonably doubt the authenticity of any signature.
於第 b 款規定之前提下，締約會員僅於該局可合理懷疑任何簽名之真實性時，得要求向該局提出證據證明。

- (5) [Indications in Communications]
〔通訊中之說明〕

A Contracting Party may require that any communication contain one or more indications prescribed in the Regulations.

締約會員得要求任何通訊包括施行細則中規定之一項或多項說明。

- (6) [Address for Correspondence, Address for Legal Service and Other Address]
〔通訊地址、法律服務之地址及其他地址〕

A Contracting Party may, subject to any provisions prescribed in the Regulations, require that an applicant, owner or other interested person indicate in any communication:

依施行細則中之任何規定，締約會員得要求申請人、專利權人或其他利害關係人於任何通訊中敘明下列事項：

- (i) an address for correspondence;
通訊地址；
- (ii) an address for legal service;

法律服務之地址；

- (iii) any other address provided in the Regulations.
施行細則規定之任何其他地址。

- (7) [Notification]
〔通知〕

Where one or more of the requirements applied by the Contracting Party under paragraphs (1) to (6) are not complied with in respect of communications, the Office shall notify the applicant, owner or other interested person, giving the opportunity to comply with any such requirement, and to make observations, within the time limit prescribed in the Regulations.

通訊之內容不符合締約會員依第一項至第六項規定所適用之一項或多項要件者，該局應通知申請人、專利權人或其他利害關係人，在施行細則所規定之期限內，給與符合任何該等要件及表示意見之機會。

- (8) [Non-Compliance with Requirements]
〔不符合要件〕

Where one or more of the requirements applied by the Contracting Party under paragraphs (1) to (6) are not complied with within the time limit prescribed in the Regulations, the Contracting Party may, subject to Articles 5 and 10 and to any exceptions prescribed in the Regulations, apply such sanction as is provided for in its law.

於施行細則所規定之期限內，不符合締約會員依第一項至第六項規定所適用之一項或多項要件者，除第五條、第十條及施行細則所為例外規定外，締約會員得適用依其法律所規定之罰則。

Article 9 Notifications

第九條 通知

- (1) [Sufficient Notification]
〔充分通知〕

Any notification under this Treaty or the Regulations which is sent by the Office to an address for correspondence or address for legal service indicated under Article 8(6), or any other address provided for in the Regulations for the purpose of this provision, and which complies with the provisions with respect to that notification, shall constitute a sufficient notification for the purposes of this Treaty and the Regulations.

依本條約或施行細則所為之任何通知，如有寄送至第八條第六項所敘明之通訊地址或法律服務之地址，或於施行細則規定為本條款之目的之任何其他地址，並符合有關該通知之規定，即構成合於本條約及施行細則目的之充分通知。

(2) [If Indications Allowing Contact Were Not Filed]

[得以聯繫之說明如未提出者]

Nothing in this Treaty and in the Regulations shall oblige a Contracting Party to send a notification to an applicant, owner or other interested person, if indications allowing that applicant, owner or other interested person to be contacted have not been filed with the Office.

得以與申請人、專利權人或利害關係人聯繫之說明若未向該局提出，本條約及施行細則中之任何內容不得要求締約會員負有寄送通知給申請人、專利權人或利害關係人之義務。

(3) [Failure to Notify]

[未為通知]

Subject to Article 10(1), where an Office does not notify an applicant, owner or other interested person of a failure to comply with any requirement under this Treaty or the Regulations, that absence of notification does not relieve that applicant, owner or other interested person of the obligation to comply with that requirement.

除第十條第一項規定外，若局未能將不符合本條約或施行細則所定任何要件之事實通知申請人、專利權人或其他利害關係人，不得因該通知之欠缺而免除該申請人、專利權人或其他利害關係人有關符合該要件之義務。

Article 10

Validity of Patent; Revocation

第十條 專利之有效性及撤銷

- (1) [Validity of Patent Not Affected by Non-Compliance with Certain Formal Requirements]

〔專利之有效性不因不符合一定形式要件而受影響〕

Non-compliance with one or more of the formal requirements referred to in Articles 6(1), (2), (4) and (5) and 8(1) to (4) with respect to an application may not be a ground for revocation or invalidation of a patent, either totally or in part, except where the non-compliance with the formal requirement occurred as a result of a fraudulent intention.

不符合第六條第一項、第二項、第四項、第五項及第八條第一項至第四項規定有關申請之一項或多項形式要件者，不得作為全部或一部專利之撤銷或宣告無效之理由，但因意圖詐欺致使發生不符合形式要件者，不在此限。

- (2) [Opportunity to Make Observations, Amendments or Corrections in Case of Intended Revocation or Invalidation]

〔在有意要撤銷或宣告無效時，給予表示意見、修改或更正之機會〕

A patent may not be revoked or invalidated, either totally or in part, without the owner being given the opportunity to make observations on the intended revocation or invalidation, and to make amendments and corrections where permitted under the applicable law, within a reasonable time limit.

有意要撤銷專利或宣告其無效時，如未在合理期限內，給予專利權人表示意見之機會，及依可適用法律准許作出修改或更正者，不得全部或一部撤銷專利或宣告其無效。

- (3) [No Obligation for Special Procedures]

〔無義務行特別程序〕

Paragraphs (1) and (2) do not create any obligation to put in place judicial procedures for the enforcement of patent rights distinct from those for the enforcement of law in general.

第一項及第二項規定對執行專利權之司法程序，並不生制定有別於執行一般法律之司法程序之任何義務。

Article 11 Relief in Respect of Time Limits

第十一條 有關期限之救濟

- (1) [Extension of Time Limits]
〔期限之延長〕

A Contracting Party may provide for the extension, for the period prescribed in the Regulations, of a time limit fixed by the Office for an action in a procedure before the Office in respect of an application or a patent, if a request to that effect is made to the Office in accordance with the requirements prescribed in the Regulations, and the request is filed, at the option of the Contracting Party:

締約會員之局收到提出延長期限之請求時，該請求如符合施行細則規定之要件，且在下列規定時點提出（由締約會員選擇）者，該締約會員得依施行細則規定之期間，將該局所限定向其進行申請或專利相關之程序之期限延長：

- (i) prior to the expiration of the time limit; or
期限屆滿前提出；或
- (ii) after the expiration of the time limit, and within the time limit prescribed in the Regulations.
期限屆滿後，但在施行細則規定之期限前提出。

- (2) [Continued Processing]
〔繼續之程序〕

Where an applicant or owner has failed to comply with a time limit fixed by the Office of a Contracting Party for an action in a procedure before the Office in respect of an application or a patent, and that Contracting Party does not provide for extension of a time limit under paragraph (1)(ii), the Contracting Party shall provide for continued processing with respect to the application or patent and, if necessary, reinstatement of the rights of the applicant or owner with respect to that application or

patent, if:

申請人或專利權人不能於締約會員的局限定之期限內，向局完成進行申請或專利相關之程序，且締約會員未依第一項第 ii 目規定將期限延長，如符合下列事項者，締約會員應規定可繼續對申請或專利未完之程序進行處理，且在必要時，恢復有關該申請或專利之申請人或專利權人之權利：

(i) a request to that effect is made to the Office in accordance with the requirements prescribed in the Regulations;

以符合施行細則規定之要件，向該局請求繼續未完之程序；

(ii) the request is filed, and all of the requirements in respect of which the time limit for the action concerned applied are complied with, within the time limit prescribed in the Regulations.

於施行細則規定之期限內，該請求已提出，並符合該請求內所稱之作為所適用期限之所有要件。

(3) [Exceptions]

[例外]

No Contracting Party shall be required to provide for the relief referred to in paragraph (1) or (2) with respect to the exceptions prescribed in the Regulations.

不得要求締約會員就施行細則規定之例外，規定有關第一項或第二項所稱之救濟。

(4) [Fees]

[費用]

A Contracting Party may require that a fee be paid in respect of a request under paragraph (1) or (2).

締約會員得要求繳納有關第一項或第二項規定請求之費用。

(5) [Prohibition of Other Requirements]

[其他要件之禁止]

No Contracting Party may require that requirements other than those referred to in paragraphs (1) to (4) be complied with in respect of the

relief provided for under paragraph (1) or (2), except where otherwise provided for by this Treaty or prescribed in the Regulations.

除本條約或施行細則另有其他規定外，締約會員不得要求第一項或第二項所稱之救濟應符合第一項至第四項以外之其他要件。

(6) [Opportunity to Make Observations in Case of Intended Refusal]

[在有意駁回案件時，給予表示意見之機會]

A request under paragraph (1) or (2) may not be refused without the applicant or owner being given the opportunity to make observations on the intended refusal within a reasonable time limit.

依第一項或第二項規定提出之請求，如未給予申請人或專利權人於合理期限內，對該有意駁回之案件表示意見之機會者，不得予以駁回。

Article 12

Reinstatement of Rights After a Finding of Due Care or Unintentionality by the Office

第十二條 經局裁定已盡到注意義務或非故意後之權利恢復

(1) [Request]

[請求]

A Contracting Party shall provide that, where an applicant or owner has failed to comply with a time limit for an action in a procedure before the Office, and that failure has the direct consequence of causing a loss of rights with respect to an application or patent, the Office shall reinstate the rights of the applicant or owner with respect to the application or patent concerned, if:

締約會員應規定，如申請人或專利權人不能於該局所訂之期限內，對其完成進行申請或專利相關程序之行為，且因不能符合期限之情事而直接導致申請或專利相關權利喪失之結果者，如有下列事項，該局應恢復申請人或專利權人有關申請或專利之權利：

- (i) a request to that effect is made to the Office in accordance with the requirements prescribed in the Regulations;
以符合施行細則規定之要件，向該局請求恢復權利；

- (ii) the request is filed, and all of the requirements in respect of which the time limit for the said action applied are complied with, within the time limit prescribed in the Regulations;
於施行細則規定之期限內，該請求已提出，並符合該作為所適用期限之所有要件；
- (iii) the request states the reasons for the failure to comply with the time limit; and
該請求應陳述不能符合期限之理由；及
- (iv) the Office finds that the failure to comply with the time limit occurred in spite of due care required by the circumstances having been taken or, at the option of the Contracting Party, that any delay was unintentional.
該局發現儘管已盡發生情況所要求之適當注意義務仍不能符合期限，或依締約會員之自由選擇，任何其認為遲延非屬故意。

(2) [Exceptions]
〔例外規定〕

No Contracting Party shall be required to provide for the reinstatement of rights under paragraph (1) with respect to the exceptions prescribed in the Regulations.

不得要求締約會員就施行細則中規定之例外，給予第一項所稱之權利恢復。

(3) [Fees]
〔費用〕

A Contracting Party may require that a fee be paid in respect of a request under paragraph (1).

締約會員得要求繳納有關第一項規定請求之費用。

(4) [Evidence]
〔證據〕

A Contracting Party may require that a declaration or other evidence in

support of the reasons referred to in paragraph (1)(iii) be filed with the Office within a time limit fixed by the Office.

締約會員得要求於該局所定之期限內，向該局提出支持第一項第 iii 目所定理由之聲明或其他證據。

(5) [Opportunity to Make Observations in Case of Intended Refusal]

[在有意駁回案件時，給予表示意見之機會]

A request under paragraph (1) may not be refused, totally or in part, without the requesting party being given the opportunity to make observations on the intended refusal within a reasonable time limit.

依第一項提出之請求，如未給予請求當事人於合理期限內，對該有意駁回之案件表示意見之機會者，不得予以全部或一部駁回。

Article 13

Correction or Addition of Priority Claim; Restoration of Priority Right

第十三條 優先權主張之更正或增加；優先權之恢復

(1) [Correction or Addition of Priority Claim]

[優先權主張之更正或增加]

Except where otherwise prescribed in the Regulations, a Contracting Party shall provide for the correction or addition of a priority claim with respect to an application (“the subsequent application”), if:

除施行細則另有其他規定外，如符合下列事項，締約會員應規定可更正或增加一申請（「後續申請」）之優先權主張：

- (i) a request to that effect is made to the Office in accordance with the requirements prescribed in the Regulations;
以符合施行細則規定之要件，向該局請求更正或增加優先權主張；
- (ii) the request is filed within the time limit prescribed in the Regulations; and
於施行細則規定之期限內，該請求已提出；及

- (iii) the filing date of the subsequent application is not later than the date of the expiration of the priority period calculated from the filing date of the earliest application whose priority is claimed.

後續申請之申請日，不晚於以主張優先權根據之最先申請案之申請日起算之優先權期間屆滿日。

(2) [Delayed Filing of the Subsequent Application]

[後續申請之遲延申請]

Taking into consideration Article 15, a Contracting Party shall provide that, where an application (“the subsequent application”) which claims or could have claimed the priority of an earlier application has a filing date which is later than the date on which the priority period expired, but within the time limit prescribed in the Regulations, the Office shall restore the right of priority, if:

斟酌第十五條規定，主張或本可主張先申請案之優先權申請(「後續申請」)之申請日，晚於優先權期間屆滿日，但在施行細則規定之期限內，締約會員應規定如有下列事項者，該局應恢復優先權：

- (i) a request to that effect is made to the Office in accordance with the requirements prescribed in the Regulations;
以符合施行細則規定之要件，向該局請求恢復優先權；
- (ii) the request is filed within the time limit prescribed in the Regulations;
於施行細則規定之期限內，該請求已提出；
- (iii) the request states the reasons for the failure to comply with the priority period; and
該請求陳述不能符合優先權期間之理由；及
- (iv) the Office finds that the failure to file the subsequent application within the priority period occurred in spite of due care required by the circumstances having been taken or, at the option of the Contracting Party, was unintentional.
該局發現儘管已盡發生情況所要求適當之注意義務仍不能符合

在優先權期間內提出後續申請，或依締約會員之自由選擇，任何其認為遲延非屬故意。

(3) [Failure to File a Copy of Earlier Application]
〔未提出先申請案之影本〕

A Contracting Party shall provide that, where a copy of an earlier application required under Article 6(5) is not filed with the Office within the time limit prescribed in the Regulations pursuant to Article 6, the Office shall restore the right of priority, if:

締約會員應規定第六條第五項所稱之先申請案的影本，於施行細則依第六條所規定之期限內未向該局提出者，如有下列事項，該局應恢復優先權：

- (i) a request to that effect is made to the Office in accordance with the requirements prescribed in the Regulations;
以符合施行細則規定之要件，向該局請求恢復優先權；
- (ii) the request is filed within the time limit for filing the copy of the earlier application prescribed in the Regulations pursuant to Article 6(5);
於施行細則依第六條第五項規定之提出先申請案影本之期限內，該請求已提出；
- (iii) the Office finds that the request for the copy to be provided had been filed with the Office with which the earlier application was filed, within the time limit prescribed in the Regulations;
and
該局發現申請先申請案影本之請求，已於施行細則規定之期限內，向受理先申請案之局提出；
- (iv) a copy of the earlier application is filed within the time limit prescribed in the Regulations.
於施行細則規定之期限內，已提出先申請案之影本。

(4) [Fees]
〔費用〕

A Contracting Party may require that a fee be paid in respect of a

request under paragraphs (1) to (3).

締約會員得要求繳納有關第一項至第三項規定請求之費用。

(5) [Evidence]

[證據]

A Contracting Party may require that a declaration or other evidence in support of the reasons referred to in paragraph (2)(iii) be filed with the Office within a time limit fixed by the Office.

締約會員得要求於該局所定之期限內，向該局提出支持第二項第 iii 目所定之理由之聲明或其他證據。

(6) [Opportunity to Make Observations in Case of Intended Refusal]

[在有意駁回案件時，給予表示意見之機會]

A request under paragraphs (1) to (3) may not be refused, totally or in part, without the requesting party being given the opportunity to make observations on the intended refusal within a reasonable time limit.

依第一項至第三項提出之請求，如未給予請求當事人於合理期限內，對該有意駁回之案件表示意見之機會者，不得予以全部或一部駁回。

Article 14 Regulations

第十四條 施行細則

(1) [Content]

[內容]

(a) The Regulations annexed to this Treaty provide rules concerning:

附加於本條約之施行細則規定有關下列事項之規則：

(i) matters which this Treaty expressly provides are to be “prescribed in the Regulations”;

本條約明文規定應「於施行細則規定」之事項；

(ii) details useful in the implementation of the provisions of this

Treaty;

對施行本條約規定具有實用性之細節；

- (iii) administrative requirements, matters or procedures.
行政之要件、事項或程序。

- (b) The Regulations also provide rules concerning the formal requirements which a Contracting Party shall be permitted to apply in respect of requests for:

施行細則亦對有關締約會員對下列請求事項可適用之形式要件之規則作出規定：

- (i) recordation of change in name or address;
姓名或地址變更之記載；
- (ii) recordation of change in applicant or owner;
申請人或專利權人變更之記載；
- (iii) recordation of a license or a security interest;
授權或利益擔保之記載；
- (iv) correction of a mistake.
錯誤之更正。

- (c) The Regulations also provide for the establishment of Model International Forms, and for the establishment of a request Form for the purposes of Article 6(2)(b), by the Assembly, with the assistance of the International Bureau.

施行細則亦得對大會在國際局協助下，訂定示範之國際表格，及為第六條第二項第 b 款之目的，訂定請求書之有關事項作出規定。

(2) [Amending the Regulations]

[修正施行細則]

Subject to paragraph (3), any amendment of the Regulations shall require three-fourths of the votes cast.

除第三項之規定外，施行細則之任何修正，應要求投票數四分之三通過。

(3) [Requirement of Unanimity]

[全體同意之要件]

- (a) The Regulations may specify provisions of the Regulations which may be amended only by unanimity.

施行細則得特別明定應經全體同意始能修改之細則條文。

- (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.

對施行細則作出任何修正，該修正會導致在施行細則內依第 a 款所定之條款之增加或刪除者，應要求全體同意。

- (c) In determining whether unanimity is attained, only votes actually cast shall be taken into consideration. Abstentions shall not be considered as votes.

於決定是否達到全體同意時，僅考慮實際投票數。棄權不應視為投票。

(4) [Conflict Between the Treaty and the Regulations]

[條約與施行細則之衝突]

In the case of conflict between the provisions of this Treaty and those of the Regulations, the former shall prevail.

於本條約之規定與施行細則之規定衝突時，以前者為優先。

Article 15

Relation to the Paris Convention

第十五條 與巴黎公約之關係

(1) [Obligation to Comply with the Paris Convention]

[遵守巴黎公約之義務]

Each Contracting Party shall comply with the provisions of the Paris Convention which concern patents.

每一締約會員應遵守巴黎公約有關專利之規定。

(2) [Obligations and Rights Under the Paris Convention]

[依巴黎公約之權利及義務]

- (a) Nothing in this Treaty shall derogate from obligations that Contracting Parties have to each other under the Paris Convention.
本條約之任何內容均不應減損締約會員相互間依巴黎公約所應負之義務。
- (b) Nothing in this Treaty shall derogate from rights that applicants and owners enjoy under the Paris Convention.
本條約之任何內容均不應減損申請人或專利權人依巴黎公約所享有之權利。

Article 16

Effect of Revisions, Amendments and Modifications of the Patent Cooperation Treaty

第十六條 專利合作條約之修正、增修及修訂之效力

(1) [Applicability of Revisions, Amendments and Modifications of the Patent Cooperation Treaty]

[專利合作條約之修正、增修及修訂之適用]

Subject to paragraph (2), any revision, amendment or modification of the Patent Cooperation Treaty made after June 2, 2000, which is consistent with the Articles of this Treaty, shall apply for the purposes of this Treaty and the Regulations if the Assembly so decides, in the particular case, by three-fourths of the votes cast.

除第二項規定外，專利合作條約自二000年六月二日後之任何與本條約之條款規定一致的修正、增修或修訂，如大會經投票數四分之三通過，視個別情形，如作出適用之決定者，應適用於本條約及施行細則。

(2) [Non-Applicability of Transitional Provisions of the Patent Cooperation Treaty]

[不適用專利合作條約過渡規定]

Any provision of the Patent Cooperation Treaty, by virtue of which a revised, amended or modified provision of that Treaty does not apply to a State party to it, or to the Office of or acting for such a State, for as long as the latter provision is incompatible with the law applied by that State or Office, shall not apply for the purposes of this Treaty and the Regulations.

依專利合作條約之任何規定，該條約之已修正、增修或修訂之規定，如有與該條約之締約國或該締約國之局或代表該締約國之局所適用之法律牴觸時，即不適用於該國或該局者，前述有關之規定不應適用於本條約及施行細則。

Article 17 Assembly

第十七條 大會

(1) [Composition]

〔組織構成〕

(a) The Contracting Parties shall have an Assembly.

締約會員應有大會。

(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.

每一締約會員應有一位代表參加大會，該代表得由數位副代表、顧問及專家輔助。每位代表僅得代表一個締約會員。

(2) [Tasks]

〔任務〕

The Assembly shall:

大會應有下列任務：

- (i) deal with matters concerning the maintenance and development of this Treaty and the application and operation**

of this Treaty;

處理本條約之維護及發展事宜，與適用及運作本條約之事務；

- (ii) establish Model International Forms, and the request Form, referred to in Article 14(1)(c), with the assistance of the International Bureau;
由國際局協助，依第十四條第一項第 c 款規定，建立示範之國際表格及請求書；
- (iii) amend the Regulations;
修訂施行細則；
- (iv) determine the conditions for the date of application of each Model International Form, and the request Form, referred to in item (ii), and each amendment referred to in item (iii);
決定依第 ii 目規定之每一示範之國際表格及請求書及依第 iii 目規定之每次修訂之適用日期之條件；
- (v) decide, pursuant to Article 16(1), whether any revision, amendment or modification of the Patent Cooperation Treaty shall apply for the purposes of this Treaty and the Regulations;
依第十六條第一項規定，決定專利合作條約之修正、增修或修訂是否應適用於本條約及施行細則；
- (vi) perform such other functions as are appropriate under this Treaty.
履行依本條約規定認為適當之其他職責。

(3) [Quorum]

[法定最低人數]

- (a) One-half of the members of the Assembly which are States shall constitute a quorum.
大會之國家會員之半數構成法定最低人數。
- (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.

儘管有第 a 款規定，如於任何會期中，大會之國家會員出席之數目少於半數，但等於或多於大會之國家會員之三分之一者，大會得作成決議，但涉及其自身程序之決議除外，此等決議應符合後述之條件，始生效。國際局應將前述決議送達未出席大會之國家會員，且請其於送達日三個月期間內，以書面表示投票或棄權。如於該期間屆滿時，就此表示其投票或棄權該會員之數目，達到該會期法定最低人數所欠缺者，同時獲得必要之多數同意時，該決議應生效。

(4) [Taking Decisions in the Assembly]

[大會作成決議]

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

大會應盡力以一致合意作成決議。

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

決議不能達到一致合意者，爭議之事項應以投票方式決定。在此狀況下：

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

每一締約之國家會員應有一投票權，且應僅以其自身名義投票；及

(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.

締約會員如係政府間組織者，該政府間組織得代替其成員國，參加投票，其投票數等同於該加入本條約之成員國的數目。該政府間組織的任一成員國參加投票者，該政府間組織即不應參加投票，反之亦然。此外，該政府間組織之成員國同時亦是另一政府間組織之成員國者，且另一政府間組織參加投票，該政府間組織不應參加投票。

(5) [Majorities]

[多數]

- (a) Subject to Articles 14(2) and (3), 16(1) and 19(3), the decisions of the Assembly shall require two-thirds of the votes cast.

除第十四條第二項及第三項、第十六條第一項及第十九條第三項規定外，大會之決議，應要求投票數三分之二通過。

- (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.

於決定是否達到必要之多數時，僅考慮實際投票數。棄權不應視為投票。

(6) [Sessions]

[會期]

The Assembly shall meet in ordinary session once every two years upon convocation by the Director General.

大會每二年由秘書長召開一次例會。

- (7) [Rules of Procedure]
〔程序之規則〕

The Assembly shall establish its own rules of procedure, including rules for the convocation of extraordinary sessions.

大會應建立其自身之程序規則，包括召開特別會期之規則。

Article 18 **International Bureau**

第十八條 國際局

- (1) [Administrative Tasks]
〔行政任務〕

- (a) The International Bureau shall perform the administrative tasks concerning this Treaty.
國際局應執行有關本條約之行政任務。
- (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.
於特別情形時，國際局應為大會及大會可能設立之專家委員會及工作小組準備會議並提供秘書處。

- (2) [Meetings Other than Sessions of the Assembly]
〔大會會期以外之會議〕

The Director General shall convene any committee and working group established by the Assembly.

秘書長應召集舉行大會所成立之任何委員會及工作小組之會議。

- (3) [Role of the International Bureau in the Assembly and Other Meetings]
〔國際局於大會與其他會議中之角色〕

- (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.

秘書長及秘書長所任命之人員應參加大會、大會所組成之委員會及工作小組之所有會議，但無投票權。

- (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).

秘書長或秘書長所任命之職員，應依職權成為第 a 款規定之大會、委員會及工作小組之秘書。

(4) [Conferences]

[會議]

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

國際局應遵守大會之指示，準備任何修正會議。

- (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.

國際局得與組織之國家會員、政府間組織及國際與國家非政府組織就有關前述準備進行協商。

- (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.

秘書長及秘書長所任命之人員應參加修正會議之討論，但無投票權。

(5) [Other Tasks]

[其他任務]

The International Bureau shall carry out any other tasks assigned to it in relation to this Treaty.

國際局應完成任何被指定之有關本條約之任務。

Article 19 Revisions

第十九條 修正

- (1) [Revision of the Treaty]
〔條約之修正〕

Subject to paragraph (2), this Treaty may be revised by a conference of the Contracting Parties. The convocation of any revision conference shall be decided by the Assembly.

除第二項規定外，本條約得經由締約會員之會議修正之。任何修正會議之召集，應由大會決定。

- (2) [Revision or Amendment of Certain Provisions of the Treaty]
〔條約之某些規定之修正或增修〕

Article 17(2) and (6) may be amended either by a revision conference, or by the Assembly according to the provisions of paragraph (3).

第十七條第二項及第六項可由修正會議或由大會依第三項規定加以增修。

- (3) [Amendment by the Assembly of Certain Provisions of the Treaty]
〔大會增修條約之某些規定〕

- (a) Proposals for the amendment by the Assembly of Article 17(2) and (6) 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.

由大會對第十七條第二項及第六項增修之提案，得由任何締約會員或秘書長提出。該提案應於大會審議之前至少六個月，由秘書長送達締約會員。

- (b) Adoption of any amendment to the provisions referred to in subparagraph (a) shall require three-fourths of the votes cast.
對第 a 款各規定之任何增修，應要求投票數四分之三通過。

- (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.

對第 a 款各規定之任何增修，應於秘書長收到大會通過該增修之時為大會成員的締約會員，依各自的憲法程序所做出有關接受其修正的書面通知，數目達四分之三後一個月開始生效。此被接受之任何前述規定之增修，應對增修案生效時之所有締約會員，及其後成為締約會員之國家及政府間組織具有拘束力。

Article 20

Becoming Party to the Treaty

第二十條 成為條約會員

- (1) [States]
〔國家〕

Any State which is party to the Paris Convention or which is a member of the Organization, and in respect of which patents may be granted, either through the State's own Office or through the Office of another State or intergovernmental organization, may become party to this Treaty.

任何屬於巴黎公約會員或本組織之會員，且經由其國家之局或經由其他國家或政府間組織之局可取得該國之專利者，得成為本條約之會員。

- (2) [Intergovernmental Organizations]
〔政府間組織〕

Any intergovernmental organization may become party to this Treaty if at least one member State of that intergovernmental organization is

party to the Paris Convention or a member of the Organization, and the intergovernmental organization declares that it has been duly authorized, in accordance with its internal procedures, to become party to this Treaty, and declares that:

任何政府間組織如至少其有一國家會員為巴黎公約會員或本組織會員，且該政府間組織聲明其依內部程序被正式授權成為本條約會員，並為下列之聲明者，該政府間組織得成為本條約會員：

- (i) it is competent to grant patents with effect for its member States; or

其有權授與對其國家會員生效之專利；或

- (ii) it is competent in respect of, and has its own legislation binding on all its member States concerning, matters covered by this Treaty, and it has, or has charged, a regional Office for the purpose of granting patents with effect in its territory in accordance with that legislation.

其有權主管本條約所涉事項，並定有對所有國家會員有拘束力之其本身之法規，且設有或掌理，依該法規規定而授與在其領域內有效之專利的區域主管局。

Subject to paragraph (3), any such declaration shall be made at the time of the deposit of the instrument of ratification or accession.

除第三項規定外，任何此項聲明應於批准書或加入書寄存時作成。

(3) [Regional Patent Organizations]

[區域專利組織]

The European Patent Organization, the Eurasian Patent Organization and the African Regional Industrial Property Organization, having made the declaration referred to in paragraph (2)(i) or (ii) in the Diplomatic Conference that has adopted this Treaty, may become party to this Treaty as an intergovernmental organization, if it declares, at the time of the deposit of the instrument of ratification or accession that it has been duly authorized, in accordance with its internal procedures, to become party to this Treaty.

在通過本條約之外交會議作出第二項第 i 目或第 ii 目所稱聲明之歐洲專利組織、歐亞專利組織及非洲地區工業財產組織，如於批准書或加入書寄存時聲明，其依內部程序被正式授權成為本條約會員者，得以政府間組織身分成為本條約會員。

(4) [Ratification or Accession]
〔批准或加入〕

Any State or intergovernmental organization satisfying the requirements in paragraph (1), (2) or (3) may deposit:

符合第一項、第二項或第三項要件之任何國家或政府間組織得為下列之寄存：

- (i) an instrument of ratification if it has signed this Treaty; or
已簽署本條約者，寄存批准書；或
- (ii) an instrument of accession if it has not signed this Treaty
未簽署本條約者，寄存加入書。

Article 21

Entry into Force; Effective Dates of Ratifications and Accessions

第二十一條 生效；批准與加入之生效日

(1) [Entry into Force of this Treaty]
〔本條約之生效〕

This Treaty shall enter into force three months after ten instruments of ratification or accession by States have been deposited with the Director General.

本條約於十個國家向秘書長寄存批准書或加入書後三個月生效。

(2) [Effective Dates of Ratifications and Accessions]
〔批准或加入之生效日〕

This Treaty shall bind:

本條約應：

- (i) the ten States referred to in paragraph (1), from the date on which this Treaty has entered into force;
自本條約生效日起，對第一項規定之十個國家具有拘束力；
- (ii) each other State, from the expiration of three months after the date on which the State has deposited its instrument of ratification or accession with the Director General, or from any later date indicated in that instrument, but no later than six months after the date of such deposit;
自各其他國家向秘書長寄存其批准書或加入書之日後三個月屆滿，或自該文書中所敘明之任何較晚之日期，但最晚在此寄存日後六個月，對各該其他國家具有拘束力；
- (iii) each of the European Patent Organization, the Eurasian Patent Organization and the African Regional Industrial Property Organization, from the expiration of three months after the deposit of its instrument of ratification or accession, or from any later date indicated in that instrument, but no later than six months after the date of such deposit, if such instrument has been deposited after the entry into force of this Treaty according to paragraph (1), or three months after the entry into force of this Treaty if such instrument has been deposited before the entry into force of this Treaty;
自歐洲專利組織、歐亞專利組織及非洲地區工業財產組織之各該組織之批准書或加入書寄存後三個月屆滿，或自該文書所敘明之任何較晚之日期，但若該文書係在依第一項規定之本條約生效後寄存者，最晚在此寄存日後六個月；或該文書係於本條約生效前寄存者，在本條約生效後三個月，對各該歐洲專利組織、歐亞專利組織及非洲地區工業財產組織具有拘束力；
- (iv) any other intergovernmental organization that is eligible to become party to this Treaty, from the expiration of three months after the deposit of its instrument of ratification or accession, or from any later date indicated in that instrument, but no later than six months after the date of such deposit.
自其他任何有資格成為本條約會員之政府間組織之批准書或加

入書寄存日後三個月屆滿，或自該文書中所敘明任何較晚之日期，但最晚在此寄存日後六個月，對各該其他政府間組織具有拘束力。

Article 22

Application of the Treaty to Existing Applications and Patents

第二十二條 條約適用於現行申請案及專利

(1) [Principle]

〔原則〕

Subject to paragraph (2), a Contracting Party shall apply the provisions of this Treaty and the Regulations, other than Articles 5 and 6(1) and (2) and related Regulations, to applications which are pending, and to patents which are in force, on the date on which this Treaty binds that Contracting Party under Article 21.

除第二項規定外，締約會員應將本條約及施行細則中除第五條、第六條第一項及第二項與其相關施行細則以外之規定，於第二十一條規定之對該締約會員具拘束力之日起，適用於申請中之申請案及已生效之專利。

(2) [Procedures]

〔程序〕

No Contracting Party shall be obliged to apply the provisions of this Treaty and the Regulations to any procedure in proceedings with respect to applications and patents referred to in paragraph (1), if such procedure commenced before the date on which this Treaty binds that Contracting Party under Article 21.

若與第一項所稱之申請案及專利有關之任何進行中之程序，係於第二十一條規定對該締約會員具拘束力之日前已經開始者，任何締約會員無將本條約及施行細則適用於此程序之義務。

Article 23

Reservations

第二十三條 保留

(1) [Reservation]

〔保留〕

Any State or intergovernmental organization may declare through a reservation that the provisions of Article 6(1) shall not apply to any requirement relating to unity of invention applicable under the Patent Cooperation Treaty to an international application.

任何國家或政府間組織得透過保留之形式聲明，第六條第一項規定不適用於依專利合作條約所適用國際申請有關發明單一性之要件。

(2) [Modalities]

〔形式〕

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.

第一項所稱之任何保留應作成聲明，附隨於該作成保留之國家或政府間組織之批准書或加入書。

(3) [Withdrawal]

〔撤回〕

Any reservation under paragraph (1) may be withdrawn at any time.

第一項所稱之任何保留，得隨時撤回之。

(4) [Prohibition of Other Reservations]

〔其他保留之禁止〕

No reservation to this Treaty other than the reservation allowed under paragraph (1) shall be permitted.

除第一項所准許之保留外，不得對本條約有任何其他之保留。

Article 24

Denunciation of the Treaty

第二十四條 宣布退出條約

(1) [Notification]

〔通知〕

Any Contracting Party may denounce this Treaty by notification addressed to the Director General.

任何締約會員得透過對秘書長發出通知之形式宣布退出本條約。

(2) [Effective Date]

〔生效日〕

Any denunciation shall take effect one year from the date on which the Director General has received the notification or at any later date indicated in the notification. It shall not affect the application of this Treaty to any application pending or any patent in force in respect of the denouncing Contracting Party at the time of the coming into effect of the denunciation.

任何退出應自秘書長收到通知之日起一年後，或該通知所敘明任何較晚之日期生效。退出生效之時，本條約對與退出之締約會員有關之任何申請中之申請案或任何有效之專利之適用，不應受影響。

Article 25 Languages of the Treaty

第二十五條 條約之語言

(1) [Authentic Texts]

〔正本〕

This Treaty is signed in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally and exclusively authentic.

本條約以英文、阿拉伯文、中文、法文、俄羅斯文及西班牙文簽署成正本一份，所有文義具有相同且排他效力。

(2) [Official Texts]

〔官方文本〕

An official text in any language other than those referred to in paragraph (1) shall be established by the Director General, after consultation with the interested parties. For the purposes of this paragraph, interested party means any State which is party to the Treaty, or is eligible to become party to the Treaty under Article 20(1), whose official language, or one of whose official languages, is involved, and the European Patent Organization, the Eurasian Patent Organization and the African Regional Industrial Property Organization and any other intergovernmental organization that is party to the Treaty, or may become party to the Treaty, if one of its official languages is involved.

以第一項所規定語言以外之任何語言之官方文本，應經秘書長與利害關係會員協商後建立。為本項之目的，利害關係會員，係指現為條約會員或依第二十條第一項規定有資格成為條約會員之任何國家，其所屬官方語言，或所屬官方語言之一具有關聯者，及現為條約會員或有資格成為條約會員之歐洲專利組織、歐亞專利組織、非洲地區工業財產組織及其他任何政府間組織，如其官方語言之一具有關聯者。

(3) [Authentic Texts to Prevail]

〔正本優先〕

In case of differences of opinion on interpretation between authentic and official texts, the authentic texts shall prevail.

於解釋正本與官方文本之間之意見歧異情形，正本應優先。

Article 26 Signature of the Treaty

第二十六條 條約之簽署

The Treaty shall remain open for signature by any State that is eligible for becoming party to the Treaty under Article 20(1) and by the European Patent Organization, the Eurasian Patent Organization and the African Regional Industrial Property Organization at the headquarters of the Organization for one year after its adoption.

本條約應於通過後，在本組織之總部，開放予依第二十條第一項規定有資格成為

條約會員之任何國家，及歐洲專利組織、歐亞專利組織、非洲地區工業財產組織簽署，為期一年。

Article 27 Depositary; Registration

第二十七條 保管人；註冊

- (1) [Depositary]
〔保管人〕

The Director General is the depositary of this Treaty.
秘書長為本條約之保管人。

- (2) [Registration]
〔註冊〕

The Director General shall register this Treaty with the Secretariat of the United Nations.
秘書長應向聯合國秘書處註冊本條約。

Regulations Under the Patent Law Treaty

專利法條約施行細則

(adopted at Geneva on June 1, 2000)

(二 000 年六月一日日內瓦通過)

Rule 1

Abbreviated Expressions

第一條 簡稱用語

(1) ["Treaty"; "Article"]

〔「條約」〕；「條」〕

(a) In these Regulations, the word "Treaty" means the Patent Law Treaty.

於施行細則中，「條約」，指專利法條約。

(b) In these Regulations, the word "Article" refers to the specified Article of the Treaty.

於施行細則中，「條」，指條約之特定條文。

(2) [Abbreviated Expressions Defined in the Treaty]

〔條約所定義之簡稱用語〕

The abbreviated expressions defined in Article 1 for the purposes of the Treaty shall have the same meaning for the purposes of the Regulations.

條約第一條所定義之簡稱用語，於本施行細則中，應有相同之意義。

Rule 2

Details Concerning Filing Date Under Article 5

第二條 有關第五條所稱申請日之細節

(1) [*Time Limits Under Article 5(3) and (4)(b)*]

[第五條第三項及第四項第 b 款所稱之期限]

Subject to paragraph (2), the time limits referred to in Article 5(3) and (4)(b) shall be not less than two months from the date of the notification referred to in Article 5(3).

除本條第二項規定外，第五條第三項及第四項第 b 款所稱之期限，不應少於自依第五條第三項通知之日起二個月。

(2) [*Exception to Time Limit Under Article 5(4)(b)*]

[第五條第四項第 b 款所稱期限之例外]

Where a notification under Article 5(3) has not been made because indications allowing the applicant to be contacted by the Office have not been filed, the time limit referred to in Article 5(4)(b) shall be not less than two months from the date on which one or more elements referred to in Article 5(1)(a) were first received by the Office.

使局得以連繫申請人之資訊尚未被提交，致未作第五條第三項所稱之通知者，第五條第四項第 b 款所稱之期限，不應少於自局首次收到第五條第一項第 a 款規定之一項或多項文件之日起二個月。

(3) [*Time Limits Under Article 5(6)(a) and (b)*]

[第五條第六項第 a 款及第 b 款所稱之期限]

The time limits referred to in Article 5(6)(a) and (b) shall be:

第五條第六項第 a 款及第 b 款所稱之期限應：

- (i) where a notification has been made under Article 5(5), not less than two months from the date of the notification;

依第五條第五項發出通知者，不少於通知之日起二個月；

- (ii) where a notification has not been made, not less than two months from the date on which one or more elements referred to in Article 5(1)(a) were first received by the Office.

未發出通知者，不少於自局首次收到第五條第一項第 a 款規定之一項或多項文件之日起二個月。

(4) [*Requirements Under Article 5(6)(b)*]

[第五條第六項第 b 款所稱之要件]

Any Contracting Party may, subject to Rule 4(3), require that, for the filing date to be determined under Article 5(6)(b):

為決定在第五條第六項第 b 款情形下之申請日，任何締約會員除施行細則第四條第三項規定外，得要求下列事項：

- (i) a copy of the earlier application be filed within the time limit applicable under paragraph (3);
於本條第三項得適用之期限內，提交一份先申請案之影本；
- (ii) a copy of the earlier application, and the date of filing of the earlier application, certified as correct by the Office with which the earlier application was filed, be filed upon invitation by the Office, within a time limit which shall be not less than four months from the date of that invitation, or the time limit applicable under Rule 4(1), whichever expires earlier;
依局的通知，於通知之日起不少於四個月，或施行細則第四條第一項得適用之期限（以先屆滿者為準）內，提交一份經先申請案受理局認證之先申請案影本，及先申請案之申請日；
- (iii) where the earlier application is not in a language accepted by the Office, a translation of the earlier application be filed within the time limit applicable under paragraph (3);
先申請案未使用局所接受之語言者，先申請案之譯本，於本條第三項可適用之期限內提出；
- (iv) the missing part of the description or missing drawing be completely contained in the earlier application;
欠缺之部分發明說明或欠缺之圖式完整地包含於先申請案；
- (v) the application, at the date on which one or more elements referred to in Article 5(1)(a) were first received by the Office, contained an indication that the contents of the earlier application were incorporated by reference in the application;
於第五條第一項第 a 款規定之一項或多項要件首次為局所收受之日，申請案中已敘明，先申請案之內容包含於申請案中；
- (vi) an indication be filed within the time limit applicable under

paragraph (3) as to where, in the earlier application or in the translation referred to in item (iii), the missing part of the description or the missing drawing is contained.

依本條第三項可適用之期限內，提出於先申請案中或依本項第 iii 目規定之譯本中，包含欠缺之部分發明說明或欠缺之圖式之說明。

(5) [Requirements Under Article 5(7)(a)]

[第五條第七項第 a 款所稱之要件]

- (a) The reference to the previously filed application referred to in Article 5(7)(a) shall indicate that, for the purposes of the filing date, the description and any drawings are replaced by the reference to the previously filed application; the reference shall also indicate the number of that application, and the Office with which that application was filed. A Contracting Party may require that the reference also indicate the filing date of the previously filed application.

依第五條第七項第 a 款以先前申請案作為參照時，為取得申請日，應敘明發明說明及任何圖式以先前申請案參照取代；參照應敘明該申請案之案號，受理局。締約會員得要求參照亦敘明先前申請案之申請日。

- (b) A Contracting Party may, subject to Rule 4(3), require that:

締約會員，除施行細則第四條第三款外，得要求下列事項：

- (i) a copy of the previously filed application and, where the previously filed application is not in a language accepted by the Office, a translation of that previously filed application, be filed with the Office within a time limit which shall be not less than two months from the date on which the application containing the reference referred to in Article 5(7)(a) was received by the Office;

先前申請案影本，如先前申請案未使用局所接受之語言，該先前申請案譯本，應於自局收到依第五條第七項第 a 款包含參照之申請案之日起，不少於二個月之期限內提出；

- (ii) a certified copy of the previously filed application be filed with the Office within a time limit which shall be not less than four

months from the date of the receipt of the application containing the reference referred to in Article 5(7)(a).

經認證之先前申請案影本，應於局收到依第五條第七項第 a 款包含參照之申請案之日起，不少於四個月之期限內，向局提出。

- (c) A Contracting Party may require that the reference referred to in Article 5(7)(a) be to a previously filed application that had been filed by the applicant or his predecessor or successor in title.

締約會員得要求依第五條第七項第 a 款所作之參照為已用申請人、其被繼承人或繼承人名義提出申請之先前申請案。

- (6) [Exceptions Under Article 5(8)(ii)]
〔第五條第八項第 ii 目所稱之例外〕

The types of applications referred to in Article 5(8)(ii) shall be:
依第五條第八項第 ii 目規定申請之類型，應為下列類型：

- (i) divisional applications;
分割之申請；
- (ii) applications for continuation or continuation-in-part;
延續或部分延續之申請；
- (iii) applications by new applicants determined to be entitled to an invention contained in an earlier application.
由被確定為對先申請案中所載之發明享有權利的新申請人提出的申請。

Rule 3 Details Concerning the Application Under Article 6(1), (2) and (3)

第三條 有關第六條第一項、第二項及第三項所稱申請之細節

- (1) [Further Requirements Under Article 6(1)(iii)]
〔第六條第一項第 iii 目所稱之其他要件〕

- (a) A Contracting Party may require that an applicant who wishes an application to be treated as a divisional application under Rule 2(6)(i) indicate:

締約會員得要求欲將申請案作為依施行細則第二條第六項第 i 目規定之分割申請處理之申請人敘明下列情事：

- (i) that he wishes the application to be so treated;
其欲將該申請案為如此處理；
- (ii) the number and filing date of the application from which the application is divided.
該分割申請之原申請案之案號及申請日。

- (b) A Contracting Party may require that an applicant who wishes an application to be treated as an application under Rule 2(6)(iii) indicate:

締約會員得要求欲將申請案作為施行細則第二條第六項第 iii 目規定之申請案處理之申請人敘明下列情事：

- (i) that he wishes the application to be so treated;
其欲將該申請案為如此處理；
- (ii) the number and filing date of the earlier application.
先申請案之案號及申請日。

- (2) [Request Form Under Article 6(2)(b)]
〔第六條第二項第 b 款所稱之請求書格式〕

A Contracting Party shall accept the presentation of the contents referred to in Article 6(2)(a):

締約會員應接受下列之方式，提出第六條第二項第 a 款規定之內容：

- (i) on a request Form, if that request Form corresponds to the Patent Cooperation Treaty request Form with any modifications under Rule 20(2);
於請求書，如該請求書符合專利合作條約之請求書，並加上依施行細則第二十條第二項規定之任何修改；

- (ii) on a Patent Cooperation Treaty request Form, if that request Form is accompanied by an indication to the effect that the applicant wishes the application to be treated as a national or regional application, in which case the request Form shall be deemed to incorporate the modifications referred to in item (i);
於專利合作條約之請求書，如該請求書附有申請人欲將其申請案作為國家或區域申請案處理之表示，於此情形，該請求書應視為已包含本項第 i 款所指之修改；
- (iii) on a Patent Cooperation Treaty request Form which contains an indication to the effect that the applicant wishes the application to be treated as a national or regional application, if such a request Form is available under the Patent Cooperation Treaty.
於專利合作條約之請求書，該請求書包括申請人欲將其申請案作為國家或區域申請案處理之表示，如該請求書依專利合作條約規定得以使用者。

(3) [Requirement Under Article 6(3)]
〔依第六條第三項規定之要求〕

A Contracting Party may require, under Article 6(3), a translation of the title, claims and abstract of an application that is in a language accepted by the Office, into any other languages accepted by that Office.
依據第六條第三項規定，締約會員得要求申請案之名稱、申請專利範圍及摘要，由一種為局所接受的語言，翻譯為該局所接受之任何另一種語言。

Rule 4
Availability of Earlier Application Under Article 6(5) and Rule 2(4) or of Previously Filed Application Under Rule 2(5)(b)

第四條 第六條第五項與施行細則第二條第四項之先申請案，或施行細則第二條第五項第 b 款之先前申請案之可利用性

- (1) [*Copy of Earlier Application Under Article 6(5)*]
〔第六條第五項規定之先申請案之影本〕

Subject to paragraph (3), a Contracting Party may require that a copy of

the earlier application referred to in Article 6(5) be filed with the Office within a time limit which shall be not less than 16 months from the filing date of that earlier application or, where there is more than one such earlier application, from the earliest filing date of those earlier applications.

除本條第三項規定外，締約會員得要求第六條第五項之先申請案之影本，於先申請案申請日起，或有一件以上之先申請案者，自最早之先申請案之申請日起不少於十六個月之期限內，向局提出。

(2) [*Certification*]

[認證]

Subject to paragraph (3), a Contracting Party may require that the copy referred to in paragraph (1) and the date of filing of the earlier application be certified as correct by the Office with which the earlier application was filed.

除本條第三項規定外，締約會員得要求本條第一項規定之影本及先申請案之申請日，應經先申請案之受理局認證。

(3) [*Availability of Earlier Application or of Previously Filed Application*]

[先申請案或先前申請案之可利用性]

No Contracting Party shall require the filing of a copy or a certified copy of the earlier application or a certification of the filing date, as referred to in paragraphs (1) and (2), and Rule 2(4), or a copy or a certified copy of the previously filed application as referred to in Rule 2(5)(b), where the earlier application or the previously filed application was filed with its Office, or is available to that Office from a digital library which is accepted by the Office for that purpose.

先申請案或先前申請案是向締約會員之局提出申請者，或於該局為該目的而認可之數位圖書館中可取得者，締約會員不應依本條第一項、第二項及施行細則第二條第四項規定要求提交先申請案之認證影本或認證其申請日，及不應依細則第二條第五項第 b 款規定要求提交先前申請案之認證本。

(4) [*Translation*]

[譯本]

Where the earlier application is not in a language accepted by the Office

and the validity of the priority claim is relevant to the determination of whether the invention concerned is patentable, the Contracting Party may require that a translation of the earlier application referred to in paragraph (1) be filed by the applicant, upon invitation by the Office or other competent authority, within a time limit which shall be not less than two months from the date of that invitation, and not less than the time limit, if any, applied under that paragraph.

先申請案未使用局所接受之語言，且優先權主張之有效性，對決定該相關發明是否具有可專利性有相關者，締約會員得要求申請人依局或其他專責機關之通知，在自該通知之日起不少於二個月之期限內，及不少於本條第一項所適用之期限內(如果有的話)提交本條第一項所指先申請案之譯本。

Rule 5

Evidence Under Articles 6(6) and 8(4)(c) and Rules 7(4), 15(4), 16(6), 17(6) and 18(4)

第五條 第六條第六項、第八條第四項第 c 款與施行細則第七條第四項、第十五條第四項、第十六條第六項、第十七條第六項及第十八條第四項規定之證據

Where the Office notifies the applicant, owner or other person that evidence is required under Article 6(6) or 8(4)(c), or Rule 7(4), 15(4), 16(6), 17(6) or 18(4), the notification shall state the reason of the Office for doubting the veracity of the matter, indication or signature, or the accuracy of the translation, as the case may be.

當局通知申請人、專利權人或其他人，依第六條第六項、第八條第四項第 c 款或施行細則第七條第四項、第十五條第四項、第十六條第六項、第十七條第六項、第十八條第四項須提供證據，該通知應視案件狀況說明局對事件、表示或簽名之真實或譯本正確性懷疑之理由。

Rule 6

Time Limits Concerning the Application Under Article 6(7) and (8)

第六條 有關第六條第七項及第八項所稱申請之期限

- (1) [*Time Limits Under Article 6(7) and (8)*]

[第六條第七項及第八項所稱之期限]

Subject to paragraphs (2) and (3), the time limits referred to in Article 6(7) and (8) shall be not less than two months from the date of the notification referred to in Article 6(7).

除本條第二項及第三項規定外，第六條第七項及第八項所稱之期限，應自依第六條第七項規定通知之日起不少於二個月。

(2) [*Exception to Time Limit Under Article 6(8)*]

[第六條第八項所稱期限之例外]

Subject to paragraph (3), where a notification under Article 6(7) has not been made because indications allowing the applicant to be contacted by the Office have not been filed, the time limit referred to in Article 6(8) shall be not less than three months from the date on which one or more of the elements referred to in Article 5(1)(a) were first received by the Office.

除本條第三項規定外，使局得以連繫申請人之資訊尚未被提交，致未作第六條第七項之通知者，第六條第八項規定之期限，不應少於自第五條第一項第 a 款規定之一項或多項要件首次為局收受之日起三個月。

(3) [*Time Limits Under Article 6(7) and (8) Relating to Payment of Application Fee in Accordance with the Patent Cooperation Treaty*]

[有關第六條第七項及第八項依專利合作條約規定繳納申請費用之期限]

Where any fees required to be paid under Article 6(4) in respect of the filing of the application are not paid, a Contracting Party may, under Article 6(7) and (8), apply time limits for payment, including late payment, which are the same as those applicable under the Patent Cooperation Treaty in relation to the basic fee component of the international fee.

依據第六條第四項有關申請應繳納之任何費用尚未繳納者，締約會員得依第六條第七項及第八項適用與專利合作條約有關國際費用之基本費用項目所適用之相同繳納期限，包括延遲繳納之狀況。

Rule 7

Details Concerning Representation Under Article 7

第七條 有關第七條所稱代理之細節

- (1) [*Other Procedures Under Article 7(2)(a)(iii)*]
〔第七條第二項第 a 款第 iii 目所稱之其他程序〕

The other procedures referred to in Article 7(2)(a)(iii) for which a Contracting Party may not require appointment of a representative are:
第七條第二項第 a 款第 iii 目所稱之締約會員得不要求委任代理人之其他程序為：

- (i) the filing of a copy of an earlier application under Rule 2(4);
依施行細則第二條第四項提交先申請案之影本；
- (ii) the filing of a copy of a previously filed application under Rule 2(5)(b).
依施行細則第二條第五項第 b 款提交先前申請案之影本。

- (2) [*Appointment of Representative Under Article 7(3)*]
〔依第七條第三項規定委任代理人〕

- (a) A Contracting Party shall accept that the appointment of a representative be filed with the Office in:
締約會員應接受代理之委任以下列方式向局提出：
 - (i) a separate communication (hereinafter referred to as a “power of attorney”) signed by the applicant, owner or other interested person and indicating the name and address of the representative; or, at the applicant’s option,
由申請人、專利權人或其他利害關係人簽名並指出代理人姓名及地址之單獨通訊（以下稱為「委任書」）；或，根據申請人的選擇，
 - (ii) the request Form referred to in Article 6(2), signed by the applicant.
以申請人已簽名之第六條第二項所述之請求書。
- (b) A single power of attorney shall be sufficient even where it relates to more than one application or patent of the same person, or to one or more applications and one or more patents of the same person,

provided that all applications and patents concerned are identified in the single power of attorney. A single power of attorney shall also be sufficient even where it relates, subject to any exception indicated by the appointing person, to all existing and future applications or patents of that person. The Office may require that, where that single power of attorney is filed on paper or as otherwise permitted by the Office, a separate copy thereof be filed for each application and patent to which it relates.

一份單一的委任書，即使係有關同一人之一件以上申請案或專利，或同一人之一件或多件申請案與一件或多件專利者，只要該單一委任書已敘明所有有關的申請案及專利，即應屬足夠。一份單一委任書，除了委任人敘明之任何例外情形外，即使係有關該委任人之所有現存及將來之申請案或專利案件，亦屬足夠。無論單一委任書係以書面或局所准許之其他方式提出，局得要求每一相關申請案或專利提交一份影本。

(3) [*Translation of Power of Attorney*]

[委任書之譯本]

A Contracting Party may require that, if a power of attorney is not in a language accepted by the Office, it be accompanied by a translation.

如委任書未使用局所接受之語言，締約會員得要求檢附譯本。

(4) [*Evidence*]

[證據]

A Contracting Party may require that evidence be filed with the Office only where the Office may reasonably doubt the veracity of any indication contained in any communication referred to in paragraph (2)(a).

僅於局對本條第二項第 a 款所述的任何通訊所載之任何事項的真實性產生合理懷疑時，締約會員得要求須向局提交證據。

(5) [*Time Limits Under Article 7(5) and (6)*]

[第七條第五項及第六項所稱之期限]

Subject to paragraph (6), the time limits referred to in Article 7(5) and (6) shall be not less than two months from the date of the notification

referred to in Article 7(5).

除本條第六項規定外，第七條第五項及第六項所稱之期限，自依第七條第五項通知之日起應不少於二個月。

(6) [*Exception to Time Limit Under Article 7(6)*]

[第七條第六項所稱之期限之例外]

Where a notification referred to in Article 7(5) has not been made because indications allowing the applicant, owner or other interested person to be contacted by the Office have not been filed, the time limit referred to in Article 7(6) shall be not less than three months from the date on which the procedure referred to in Article 7(5) was commenced. 使局得以連繫申請人、專利權人或其他利害關係人之資訊尚未被提交，而致未作第七條第五項規定之通知者，第七條第六項所稱之期限，不應少於第七條第五項規定程序開始之日起三個月。

Rule 8

Filing of Communications Under Article 8(1)

第八條 第八條第一項規定之提交通訊

(1) [Communications Filed on Paper]

[以書面提交通訊]

- (a) After June 2, 2005, any Contracting Party may, subject to Articles 5(1) and 8(1)(d), exclude the filing of communications on paper or may continue to permit the filing of communications on paper. Until that date, all Contracting Parties shall permit the filing of communications on paper.

於二〇〇五年六月二日以後，任何締約會員除第五條第一項及第八條第一項第d款規定外，得不受理以書面提交通訊，或得繼續允許以書面提交通訊。該日期之前，所有締約會員應准許以書面提交通訊。

- (b) Subject to Article 8(3) and subparagraph (c), a Contracting Party may prescribe the requirements relating to the form of communications on paper.

除第八條第三項及本項第c款規定外，締約會員得規定與書面通訊有

關的形式要件。

- (c) Where a Contracting Party permits the filing of communications on paper, the Office shall permit the filing of communications on paper in accordance with the requirements under the Patent Cooperation Treaty relating to the form of communications on paper.

締約會員允許以書面提交通訊者，局應准許提交依照專利合作條約有關書面通訊形式規定之書面通訊。

- (d) Notwithstanding subparagraph (a), where the receiving or processing of a communication on paper, due to its character or its size, is deemed not practicable, a Contracting Party may require the filing of that communication in another form or by other means of transmittal.

儘管本項第 a 款規定，但如書面通訊之收受或處理，由於其特性或規格，視為不可行時，締約會員得要求以其他表格或其他傳送方法提交通訊。

(2) [Communications Filed in Electronic Form or by Electronic Means of Transmittal]

[以電子形式或藉電子傳送方法提交通訊]

- (a) Where a Contracting Party permits the filing of communications in electronic form or by electronic means of transmittal with its Office in a particular language, including the filing of communications by telegraph, teleprinter, telefacsimile or other like means of transmittal, and there are requirements applicable to that Contracting Party under the Patent Cooperation Treaty in relation to communications filed in electronic form or by electronic means of transmittal in that language, the Office shall permit the filing of communications in electronic form or by electronic means of transmittal in the said language in accordance with those requirements.

締約會員允許以一特定的語言以電子形式或藉電子傳送方法向局提交通訊，包括電報、電傳打字、傳真或其他類似傳送方法，且專利合作條約有關使用該語言以電子形式或藉電子傳送方法提交通訊之規定可適用於該締約會員者，局應准許依照該規定使用前述語言以電子形式或藉電子傳送方法提交通訊。

- (b) A Contracting Party which permits the filing of communications in electronic form or by electronic means of transmittal with its Office shall notify the International Bureau of the requirements under its applicable law relating to such filing. Any such notification shall be published by the International Bureau in the language in which it is notified and in the languages in which authentic and official texts of the Treaty are established under Article 25.

允許以電子形式或藉電子傳送方法向局提交通訊之締約會員，應將其可適用法律中有關提交方式之規定通知國際局。國際局應以通知所使用之語言及以第二十五條規定條約正本及官方文本所使用之語言公布任何此種通知。

- (c) Where, under subparagraph (a), a Contracting Party permits the filing of communications by telegraph, teleprinter, telefacsimile or other like means of transmittal, it may require that the original of any document which was transmitted by such means of transmittal, accompanied by a letter identifying that earlier transmission, be filed on paper with the Office within a time limit which shall be not less than one month from the date of the transmission.

除本項第 a 款規定外，締約會員允許以電報、電傳打字、傳真或其他類似傳送方法提交通訊者，得要求藉此傳送方法所傳送之任何文件之原本，並附確認先前傳送之信件，在不少於自傳送日起一個月之期限內，向局以書面提交。

- (3) [Copies, Filed in Electronic Form or by Electronic Means of Transmittal, of Communications Filed on Paper]

[以電子形式或藉電子傳送方法提交之通訊其書面副本之提交]

- (a) Where a Contracting Party permits the filing of a copy, in electronic form or by electronic means of transmittal, of a communication filed on paper in a language accepted by the Office, and there are requirements applicable to that Contracting Party under the Patent Cooperation Treaty in relation to the filing of such copies of communications, the Office shall permit the filing of copies of communications in electronic form or by electronic means of transmittal, in accordance with those requirements.

締約會員允許以局所接受之語言，向局提交以電子形式或藉電子傳送方法提交之通訊之副本，且專利合作條約有關提交此通訊影本之規

定，可適用於該締約會員者，局應允許依照該規定提交以電子形式或藉電子傳送方法提交之通訊之副本。

- (b) Paragraph (2)(b) shall apply, *mutatis mutandis*, to copies, in electronic form or by electronic means of transmittal, of communications filed on paper.

本條第二項第 b 款，應準用於以電子形式或藉電子傳送方法提交書面通訊之副本。

Rule 9

Details Concerning the Signature Under Article 8(4)

第九條 有關第八條第四項所稱簽名之細節

- (1) [*Indications Accompanying Signature*]

〔簽名時須敘明之事項〕

A Contracting Party may require that the signature of the natural person who signs be accompanied by:

締約會員得要求自然人簽名時應：

- (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;

以字母寫明該人之姓或主姓及名或副名或該人之所有名字，或在該人之自由選擇下，其習慣使用之一個名字或數個名字；

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

在通訊中，簽名之人之身份不明顯時，敘明該簽名人之身份。

- (2) [*Date of Signing*]

〔簽名日期〕

A 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 permits, a date earlier than the latter date.

締約會員得要求簽名時寫明日期，該簽名自該日生效。如須敘明日期但未敘明者，簽名生效日視為附有簽名之通訊由局收受之日，或如締約會員准許者，一個早於後者之日期。

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

[書面通訊之簽名]

Where a communication to the Office of a Contracting Party is on paper and a signature is required, that Contracting Party:

如向締約會員通訊，係屬書面且必須簽名者，該締約會員：

- (i) shall, subject to item (iii), accept a handwritten signature;
除本項第 iii 目規定外，應接受手寫簽名；
- (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;
得准許使用其他形式之簽名，例如印刷或蓋章之簽名，或使用印章或條碼標籤；
- (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.
簽名於通訊之自然人係締約會員之國民，且此人之地址位於其領域，或在通訊簽名所代表之法人係依據締約會員之法律組成，且在締約會員領土內有住所或有真正且有效之工商營業所，得要求以印章替代手寫簽名。

(4) [*Signature of Communications Filed in Electronic Form or by*

Electronic Means of Transmittal Resulting in Graphic Representation]

[以電子形式或藉電子傳送方法提交通訊之簽名以圖像呈現]

Where a Contracting Party permits the filing of communications in electronic form or by electronic means of transmittal, it shall consider such a communication signed if a graphic representation of a signature accepted by that Contracting Party under paragraph (3) appears on that communication as received by the Office of that Contracting Party.

締約會員允許以電子形式或藉電子傳送方法提交通訊者，如一個締約會員依本條第三項接受之簽名圖像，顯示於該締約會員之局所收到之通訊上，應視為此通訊已簽名。

(5) [Signature of Communications Filed in Electronic Form Not Resulting in Graphic Representation of Signature]

[以電子形式提交之通訊之簽名未呈現簽名之圖像]

- (a) Where a Contracting Party permits the filing of communications in electronic form, and a graphic representation of a signature accepted by that Contracting Party under paragraph (3) does not appear on such a communication as received by the Office of that Contracting Party, the Contracting Party may require that the communication be signed using a signature in electronic form as prescribed by that Contracting Party.

締約會員准許以電子形式提交通訊者，且依本條第三項規定為該締約會員所接受之簽名圖像未顯示於該締約會員之局收到之通訊上，締約會員得要求使用締約會員規定之電子簽章方式於通訊上簽名。

- (b) Notwithstanding subparagraph (a), where a Contracting Party permits the filing of communications in electronic form in a particular language, and there are requirements applicable to that Contracting Party under the Patent Cooperation Treaty in relation to signatures in electronic form of communications filed in electronic form in that language which do not result in a graphic representation of the signature, the Office of that Contracting Party shall accept a signature in electronic form in accordance with those requirements. 儘管有本項第 a 款之規定，締約會員允許使用一特定語言以電子形式提交通訊，且專利合作條約中有關以該語言提交之電子形式之通訊其電子簽章未產生以圖像呈現之簽名之要件，可適用於該締約會員者，

該締約會員之局應接受符合此等要件之電子簽章。

- (c) Rule 8(2)(b) shall apply *mutatis mutandis*.
施行細則第八條第二項第 b 款規定，應準用之。

- (6) [Exception to Certification of Signature Under Article 8(4)(b)]
〔第八條第四項第 b 款所稱簽名確認之例外〕

A Contracting Party may require that any signature referred to in paragraph (5) be confirmed by a process for certifying signatures in electronic form specified by that Contracting Party.

締約會員得要求本條第五項規定之任何簽名，須經該締約會員所指定之確認電子簽章程序確認之。

Rule 10

Details Concerning Indications Under Article 8(5), (6) and (8)

第十條 有關第八條第五項、第六項及第八項所稱說明之細節

- (1) [Indications Under Article 8(5)]
〔第八條第五項所稱之說明〕
- (a) A Contracting Party may require that any communication:
締約會員得要求任何通訊具有下列事項：
- (i) indicate the name and address of the applicant, owner or other interested person;
敘明申請人、專利權人或其他利害關係人之姓名及地址；
 - (ii) indicate the number of the application or patent to which it relates;
敘明相關申請案或專利之案號；
 - (iii) contain, where the applicant, owner or other interested person is registered with the Office, the number or other indication under which he is so registered.
申請人、專利權人或其他利害關係人已於局註冊者，包含其註冊

號或其他說明。

- (b) A Contracting Party may require that any communication by a representative for the purposes of a procedure before the Office contain:

締約會員得要求代理人為進行對局之程序之任何通訊，應包含下列事項：

- (i) the name and address of the representative;
代理人之姓名及地址；
- (ii) a reference to the power of attorney, or other communication in which the appointment of that representative is or was effected, on the basis of which the said representative acts;
據以為代理行為之委任書的參照，或於現在或過去生效之委任該代理人之其他通訊；
- (iii) where the representative is registered with the Office, the number or other indication under which he is registered.
代理人已於局註冊者，其註冊號或其他說明。

- (2) [Address for Correspondence and Address for Legal Service]
〔通信地址與法律服務之地址〕

A Contracting Party may require that the address for correspondence referred to in Article 8(6)(i) and the address for legal service referred to in Article 8(6)(ii) be on a territory prescribed by that Contracting Party.
締約會員得要求第八條第六項第 i 目規定之通訊地址及第八條第六項第 ii 目規定之法律服務之地址，在該締約會員所規定領域內。

- (3) [Address Where No Representative Is Appointed]
〔無委任代理人時之地址〕

Where no representative is appointed and an applicant, owner or other interested person has provided, as his address, an address on a territory prescribed by the Contracting Party under paragraph (2), that Contracting Party shall consider that address to be the address for correspondence referred to in Article 8(6)(i) or the address for legal

service referred to in Article 8(6)(ii), as required by the Contracting Party, unless that applicant, owner or other interested person expressly indicates another such address under Article 8(6).

無委任代理人，且申請人、專利權人或其他利害關係人已提供其地址，該地址位於締約會員依本條第二項規定之領域內者，締約會員應將該地址視為符合締約會員規定之第八條第六項第 i 目之通訊地址或第八條第六項第 ii 目之法律服務之地址，除非該申請人、專利權人或其他利害關係人明確指出有依第八條第六項規定之其他地址。

(4) [Address Where Representative Is Appointed]

[有委任代理人之地址]

Where a representative is appointed, a Contracting Party shall consider the address of that representative to be the address for correspondence referred to in Article 8(6)(i) or the address for legal service referred to in Article 8(6)(ii), as required by the Contracting Party, unless that applicant, owner or other interested person expressly indicates another such address under Article 8(6).

有委任代理人者，締約會員應將該代理人之地址視為符合締約會員規定之第八條第六項第 i 目之通訊地址或第八條第六項第 ii 目之法律服務之地址，除非該申請人、專利權人或其他利害關係人明確指出有依第八條第六項規定之其他地址。

(5) [*Sanctions for Non-Compliance with Requirements Under Article 8(8)*]

[第八條第八項所稱不符合要件之處分]

No Contracting Party may provide for the refusal of an application for failure to comply with any requirement to file a registration number or other indication under paragraph (1)(a)(iii) and (b)(iii).

締約會員不得規定因欠缺符合本條第一項第 a 款第 iii 目及第 b 款第 iii 目提出註冊號或其他說明之任何要件，而駁回申請案。

Rule 11
Time Limits Concerning Communications Under Article 8(7)
and (8)

第十一條 有關第八條第七項及第八項所稱之通訊之期限

(1) [*Time Limits Under Article 8(7) and (8)*]

[第八條第七項及第八項所稱之期限]

Subject to paragraph (2), the time limits referred to in Article 8(7) and (8) shall be not less than two months from the date of the notification referred to in Article 8(7).

除依本條第二項規定外，第八條第七項及第八項所稱之期限，不應少於自第八條第七項規定之通知之日起二個月。

(2) [*Exception to Time Limit Under Article 8(8)*]

[第八條第八項所稱期限之例外]

Where a notification under Article 8(7) has not been made because indications allowing the applicant, owner or other interested person to be contacted by the Office have not been filed, the time limit referred to in Article 8(8) shall be not less than three months from the date on which the communication referred to in Article 8(7) was received by the Office.

使局得以連繫申請人、專利權人或其他利害關係人之資訊尚未被提交，致未作第八條第七項規定之通知者，第八條第八項所稱之期限，不應少於自局收到第八條第七項規定之通訊之日起三個月。

Rule 12

Details Concerning Relief in Respect of Time Limits Under Article 11

第十二條 有關第十一條所稱之期限之救濟細節

(1) [*Requirements Under Article 11(1)*]

[第十一條第一項所稱之要件]

(a) A Contracting Party may require that a request referred to in Article 11(1):

締約會員得要求第十一條第一項規定之請求，有下列事項：

- (i) be signed by the applicant or owner;
由申請人或專利權人簽名；
- (ii) contain an indication to the effect that extension of a time limit is requested, and an identification of the time limit in question.
包括請求延長期限的說明及對該期限之確認文件。

- (b) Where a request for extension of a time limit is filed after the expiration of the time limit, a Contracting Party may require that all of the requirements in respect of which the time limit for the action concerned applied be complied with at the same time as the request is filed.

如果延長期限之請求，係於期限屆滿後才提出，締約會員得要求在提出請求的同時，應遵守所有有關行動的適用期限之規定。

(2) [Period and Time Limit Under Article 11(1)]

[第十一條第一項所稱期間及期限]

- (a) The period of extension of a time limit referred to in Article 11(1) shall be not less than two months from the date of the expiration of the unextended time limit.

第十一條第一項所稱期限延展之期間，不應少於自不可延展的期限屆滿日起二個月。

- (b) The time limit referred to in Article 11(1)(ii) shall expire not earlier than two months from the date of the expiration of the unextended time limit.

第十一條第一項第 ii 目所稱之期限，不應早於自不可延展之期限屆滿日起二個月。

(3) [Requirements Under Article 11(2)(i)]

[第十一條第二項第 i 款所稱之要件]

A Contracting Party may require that a request referred to in Article 11(2):

締約會員得要求第十一條第二項規定之請求具有下列事項：

- (i) be signed by the applicant or owner;

由申請人或專利權人簽名；

- (ii) contain an indication to the effect that relief in respect of non-compliance with a time limit is requested, and an identification of the time limit in question.

包含對未遵守期限請求救濟之說明及對該期限之確認。

(4) [Time Limit for Filing a Request Under Article 11(2)(ii)]

[第十一條第二項第 ii 目所稱提出請求之期限]

The time limit referred to in Article 11(2)(ii) shall expire not earlier than two months after a notification by the Office that the applicant or owner did not comply with the time limit fixed by the Office.

第十一條第二項第 ii 目所稱之期限，不應早於自局通知申請人或專利權人未遵守局指定之期限之後二個月。

(5) [Exceptions Under Article 11(3)]

[第十一條第三項所稱之例外]

- (a) No Contracting Party shall be required under Article 11(1) or (2) to grant:

不得要求締約會員依第十一條第一項或第二項給予下列事項：

- (i) a second, or any subsequent, relief in respect of a time limit for which relief has already been granted under Article 11(1) or (2);

已依第十一條第一項或第二項規定給予救濟之期限之再次或任何後續之救濟；

- (ii) relief for filing a request for relief under Article 11(1) or (2) or a request for reinstatement under Article 12(1);

對依第十一條第一項或第二項規定提出救濟請求，或依第十二條第一項規定提出恢復權利請求之救濟；

- (iii) relief in respect of a time limit for the payment of maintenance fees;

有關維護費繳納期限之救濟；

- (iv) relief in respect of a time limit referred to in Article 13(1), (2) or (3);
有關第十三條第一項、第二項或第三項規定之期限之救濟；
 - (v) relief in respect of a time limit for an action before a board of appeal or other review body constituted in the framework of the Office;
對上訴委員會或局組織中設置之其他複審機構之相關程序之期限的救濟；
 - (vi) relief in respect of a time limit for an action in *inter partes* proceedings.
有關當事人之間的行為期限之救濟。
- (b) No Contracting Party which provides a maximum time limit for compliance with all of the requirements of a procedure before the Office shall be required under Article 11(1) or (2) to grant relief in respect of a time limit for an action in that procedure in respect of any of those requirements beyond that maximum time limit.
當締約會員在對遵守局的所有程序要件方面已給予一個最長期限，不應被要求依第十一條第一項或第二項在最長期限之後在該程序有關任何要件之行為的期限給予救濟。

Rule 13

Details Concerning Reinstatement of Rights After a Finding of Due Care or Unintentionality by the Office Under Article 12

第十三條 有關第十二條所稱之經局裁定已盡到注意義務或非故意後之權利恢復細節

- (1) [*Requirements Under Article 12(1)(i)*]
〔第十二條第一項第 i 款所稱之要件〕

A Contracting Party may require that a request referred to in Article 12(1)(i) be signed by the applicant or owner.

締約會員得要求第十二條第一項第 i 款規定之請求，由申請人或專利權人簽名。

(2) [*Time Limit Under Article 12(1)(ii)*]
〔第十二條第一項第 ii 目所稱之期限〕

The time limit for making a request, and for complying with the requirements, under Article 12(1)(ii), shall be the earlier to expire of the following:

依第十二條第一項第 ii 目規定提出請求且符合要件之期限，應於下列期限較早者屆滿：

- (i) not less than two months from the date of the removal of the cause of failure to comply with the time limit for the action in question;
自導致未能遵守系爭行為期限之原因除去之日起不少於二個月；
- (ii) not less than 12 months from the date of expiration of the time limit for the action in question, or, where a request relates to non-payment of a maintenance fee, not less than 12 months from the date of expiration of the period of grace provided under Article 5*bis* of the Paris Convention.
自系爭行為之期限屆滿之日起不少於十二個月，或有關未繳納維護費用之請求者，自巴黎公約第五條之二規定優惠期間屆滿之日起不少於十二個月。

(3) [*Exceptions Under Article 12(2)*]
〔第十二條第二項所稱之例外〕

The exceptions referred to in Article 12(2) are failure to comply with a time limit:

第十二條第二項所稱之例外，指對下列事項未遵守期限：

- (i) for an action before a board of appeal or other review body constituted in the framework of the Office;
對上訴委員會或局組織中設置之其他複審機構之行為；
- (ii) for making a request for relief under Article 11(1) or (2) or a request for reinstatement under Article 12(1);
依第十一條第一項或第二項提出救濟請求或依第十二條第一項提出恢復權利之請求；

- (iii) referred to in Article 13(1), (2) or (3);
依第十三條第一項、第二項或第三項規定；
- (iv) for an action in *inter partes* proceedings.
對當事人間之行為。

Rule 14

Details Concerning Correction or Addition of Priority Claim and Restoration of Priority Right Under Article 13

第十四條 有關第十三條所稱之優先權主張之更正或增加與優先權恢復之細節

- (1) [*Exception Under Article 13(1)*]
〔第十三條第一項所稱之例外〕

No Contracting Party shall be obliged to provide for the correction or addition of a priority claim under Article 13(1), where the request referred to in Article 13(1)(i) is received after the applicant has made a request for early publication or for expedited or accelerated processing, unless that request for early publication or for expedited or accelerated processing is withdrawn before the technical preparations for publication of the application have been completed.

若第十三條第一項第 i 款規定之請求，是在申請人已請求提早公開或加速處理之後才收到，締約會員並無義務依第十三條第一項允許更正或增加優先權主張，除非該提早公開或加速處理之請求，於申請案公開之技術準備完成之前撤回。

- (2) [*Requirements Under Article 13(1)(i)*]
〔第十三條第一項第 i 款所稱之要件〕

A Contracting Party may require that a request referred to in Article 13(1)(i) be signed by the applicant.

締約會員得要求依第十三條第一項第 i 款之請求，由申請人簽名。

- (3) [*Time Limit Under Article 13(1)(ii)*]
〔第十三條第一項第 ii 目所稱之期限〕

The time limit referred to in Article 13(1)(ii) shall be not less than the time limit applicable under the Patent Cooperation Treaty to an international application for the submission of a priority claim after the filing of an international application.

第十三條第一項第 ii 目所稱之期限，不應少於依專利合作條約可適用於國際申請提出後，國際申請之優先權主張提出之期限。

(4) [*Time Limits Under Article 13(2)*]

[第十三條第二項所稱之期限]

- (a) The time limit referred to in Article 13(2), introductory part, shall expire not less than two months from the date on which the priority period expired.

第十三條第二項開始部分所稱之期限，應自優先權期間屆滿日起不少於二個月屆滿。

- (b) The time limit referred to in Article 13(2)(ii) shall be the time limit applied under subparagraph (a), or the time that any technical preparations for publication of the subsequent application have been completed, whichever expires earlier.

第十三條第二項第 ii 目所稱之期限，應為本項第 a 款所適用之期限，或後續申請案之公開之任何技術準備完成之時，以較早屆滿者為準。

(5) [*Requirements Under Article 13(2)(i)*]

[第十三條第二項第 i 款所稱之要件]

A Contracting Party may require that a request referred to in Article 13(2)(i):

締約會員得要求依第十三條第二項第 i 款之請求，具有下列事項：

- (i) be signed by the applicant; and
由申請人簽名；及
- (ii) be accompanied, where the application did not claim the priority of the earlier application, by the priority claim.
申請案未主張先申請案之優先權者，附隨優先權主張。

(6) [*Requirements Under Article 13(3)*]

[第十三條第三項所稱之要件]

(a) A Contracting Party may require that a request referred to in Article 13(3)(i):

締約會員得要求第十三條第三項第 i 款規定之請求，具下列事項：

- (i) be signed by the applicant; and
由申請人簽名；及
- (ii) indicate the Office to which the request for a copy of the earlier application had been made and the date of that request.
敘明已向何局提出請求提供先申請案之影本及該請求之日期。

(b) A Contracting Party may require that:

締約會員得要求下列事項：

- (i) a declaration or other evidence in support of the request referred to in Article 13(3) be filed with the Office within a time limit fixed by the Office;
支持第十三條第三項之請求的聲明或其他證據於局指定期限內向局提出；
- (ii) the copy of the earlier application referred to in Article 13(3)(iv) be filed with the Office within a time limit which shall be not less than one month from the date on which the applicant is provided with that copy by the Office with which the earlier application was filed.
第十三條第三項第 iv 目規定之先申請案之影本，於先申請案受理局提供先申請案之影本予申請人之日起不少於一個月之期限內向局提出。

(7) [*Time Limit Under Article 13(3)(iii)*]

[第十三條第三項第 iii 目所稱之期限]

The time limit referred to in Article 13(3)(iii) shall expire two months before the expiration of the time limit prescribed in Rule 4(1).

第十三條第三項第 iii 目所稱之期限，應在施行細則第四條第一項之期限

屆滿前二個月屆滿。

Rule 15

Request for Recordation of Change in Name or Address

第十五條 姓名或地址變更記載之請求

(1) [*Request*]
〔請求〕

Where there is no change in the person of the applicant or owner but there is a change in his name or address, a Contracting Party shall accept that a request for recordation of the change be made in a communication signed by the applicant or owner and-containing the following indications:

未變更申請人或專利權人，但要變更其姓名或地址者，締約會員應接受申請人或專利權人簽名於通訊中所為之變更記載請求，且包括下列事項：

- (i) an indication to the effect that recordation of a change in name or address is requested;
請求姓名或地址之變更記載之說明；
- (ii) the number of the application or patent concerned;
相關申請案或專利之案號；
- (iii) the change to be recorded;
須登記之變更；
- (iv) the name and address of the applicant or the owner prior to the change.
變更前的申請人或專利權人姓名及地址。

(2) [*Fees*]
〔費用〕

A Contracting Party may require that a fee be paid in respect of a request referred to in paragraph (1).

締約會員得要求繳納本條第一項所稱之請求的費用。

(3) [*Single Request*]

[單一請求]

- (a) A single request shall be sufficient even where the change relates to both the name and address of the applicant or the owner.

即使變更涉及申請人或專利權人之姓名及地址，一份單一請求書即屬足夠。

- (b) A single request shall be sufficient even where the change relates to more than one application or patent of the same person, or to one or more applications and one or more patents of the same person, provided that the numbers of all applications and patents concerned are indicated in the request. A Contracting Party may require that, where that single request is filed on paper or as otherwise permitted by the Office, a separate copy thereof be filed for each application and patent to which it relates.

即使同一人有超過一項之申請案或專利，或同一人有一項或多項之申請案及一項或多項之專利要變更，如請求書中已敘明所有相關申請案及專利之案號，一份單一請求書即已足夠。該單一請求書以書面或其他由局所允許之方式提出者，締約會員得要求對每一相關之申請案及專利提交一份影本。

(4) [*Evidence*]

[證據]

A Contracting Party may require that evidence be filed with the Office only where the Office may reasonably doubt the veracity of any indication contained in the request.

僅於局得合理懷疑請求中之說明事項之真實性者，締約會員得要求須向局提出證據。

(5) [*Prohibition of Other Requirements*]

[其他要件之禁止]

No Contracting Party may require that formal requirements other than those referred to in paragraphs (1) to (4) be complied with in respect of

the request referred to in paragraph (1), except where otherwise provided for by the Treaty or prescribed in these Regulations. In particular, the filing of any certificate concerning the change may not be required.

除條約或施行細則另有規定外，締約會員不得要求在本條第一項規定之請求，須符合本條第一項至第四項規定要件以外之形式要件。特別是不得要求提供有關變更之任何證明。

(6) [Notification]

[通知]

Where one or more of the requirements applied by the Contracting Party under paragraphs (1) to (4) are not complied with, the Office shall notify the applicant or owner, giving the opportunity to comply with any such requirement, and to make observations, within not less than two months from the date of the notification.

如果締約會員依本條第一項至第四項所適用之一項或多項要件未獲符合時，局應通知申請人或專利權人，給予在不少於通知之日起二個月內去符合任何要件或表示意見之機會。

(7) [Non-Compliance with Requirements]

[不符合要件]

- (a) Where one or more of the requirements applied by the Contracting Party under paragraphs (1) to (4) are not complied with within the time limit under subparagraph (b), the Contracting Party may provide that the request shall be refused, but no more severe sanction may be applied.

如果締約會員依本條第一項至第四項所適用之一項或多項要件在本項第 b 款所規定的期限內未獲符合，締約會員得規定該請求應予駁回，但不得適用更嚴重之罰則。

- (b) The time limit referred to in subparagraph (a) shall be:

本項第 a 款規定之期限，應為：

- (i) subject to item (ii), not less than two months from the date of the notification;

除本款第 ii 目規定之外，自通知之日起不少於二個月；

- (ii) where indications allowing the Office to contact the person who made the request referred to in paragraph (1) have not been filed, not less than three months from the date on which that request was received by the Office.

依本條第一項提出請求的人未提交該局得以作連繫之資料者，不少於自局收到該請求之日起三個月。

- (8) [Change in the Name or Address of the Representative, or in the Address for Correspondence or Address for Legal Service]
〔代理人之姓名或地址變更，或通訊地址或法律服務之地址之變更〕

Paragraphs (1) to (7) shall apply, mutatis mutandis, to any change in the name or address of the representative, and to any change relating to the address for correspondence or address for legal service.

本條第一項至第七項規定，應準用於代理人之姓名或地址之任何變更，及有關通訊地址或法律服務之地址之任何變更。

Rule 16

Request for Recordation of Change in Applicant or Owner

第十六條 申請人或專利權人變更記載之請求

- (1) [Request for Recordation of a Change in Applicant or Owner]
〔申請人或專利權人變更記載之請求〕

- (a) Where there is a change in the person of the applicant or owner, a Contracting Party shall accept that a request for recordation of the change be made in a communication signed by the applicant or owner, or by the new applicant or new owner, and containing the following indications:

申請人或專利權人，或新的申請人或新的專利權人在通訊上簽署並提出變更申請人或專利權人之請求者，締約會員應接受變更記載之請求，變更記載之請求應包括：

- (i) an indication to the effect that a recordation of change in applicant or owner is requested;

有關請求變更申請人或專利權人之記載之說明；

- (ii) the number of the application or patent concerned;
相關申請案或專利之案號；
 - (iii) the name and address of the applicant or owner;
申請人或專利權人之姓名及地址；
 - (iv) the name and address of the new applicant or new owner;
新申請人或新專利權人之姓名及地址；
 - (v) the date of the change in the person of the applicant or owner;
變更申請人或專利權人之日期；
 - (vi) the name of a State of which the new applicant or new owner is a national if he is the national of any State, the name of a State in which the new applicant or new owner has his domicile, if any, and the name of a State in which the new applicant or new owner has a real and effective industrial or commercial establishment, if any;
新申請人或新專利權人如為任一國家之國民，該國家之名稱；新申請人或新專利權人住所所在國家之國名（如果有的話），及新申請人或新專利權人有真正且有效之工商營業所所在之國家名稱（如果有的話）；
 - (vii) the basis for the change requested.
請求變更之根據。
- (b) A Contracting Party may require that the request contain:
- 締約會員得要求該請求包括下列事項：
- (i) a statement that the information contained in the request is true and correct;
該請求中所載之內容為真實且正確之聲明；
 - (ii) information relating to any government interest by that Contracting Party.
有關該締約會員之任何政府利益之資訊。

(2) [Documentation of the Basis of the Change in Applicant or Owner]

[申請人或專利權人變更根據之文件]

- (a) Where the change in applicant or owner results from a contract, a Contracting Party may require that the request include information relating to the registration of the contract, where registration is compulsory under the applicable law, and that it be accompanied, at the option of the requesting party, by one of the following:

因契約而為申請人或專利權人之變更者，如依締約會員之適用法律，該契約之註冊是強制性的，締約會員得要求該請求包括契約之註冊資訊，且在該請求之當事人自由選擇下，附隨下列事項之一：

- (i) a copy of the contract, which copy may be required to be certified, at the option of the requesting party, by a notary public or any other competent public authority or, where permitted under the applicable law, by a representative having the right to practice before the Office, as being in conformity with the original contract;
一份契約之影本，該影本得要求須經認證與原始契約一致，該認證得在該請求之當事人自由選擇下，由公證人或其他政府主管機關，或其適用法律准許者，由有權於局執行業務之代理人予以證明；
- (ii) an extract of the contract showing the change, which extract may be required to be certified, at the option of the requesting party, by a notary public or any other competent public authority or, where permitted under the applicable law, by a representative having the right to practice before the Office, as being a true extract of the contract;
一份載明變更內容之契約摘錄，該摘錄得要求須經認證為真實之契約摘錄，該認證得在該請求之當事人自由選擇下，由公證人或其他政府主管機關，或其適用法律准許者，由有權於局執行業務之代理人予以證明；
- (iii) an uncertified certificate of transfer of ownership by contract drawn up with the content as prescribed in the Model International Form in respect of a certificate of transfer and

signed by both the applicant and the new applicant, or by both the owner and the new owner.

一份未經認證，因契約而生之移轉證明，該內容依照移轉證明相關之示範之國際表格規定，並由申請人與新申請人，或專利權人與新專利權人共同簽署。

- (b) Where the change in applicant or owner results from a merger, or from the reorganization or division of a legal entity, a Contracting Party may require that the request be accompanied by a copy of a document, which document originates from a competent authority and evidences the merger, or the reorganization or division of the legal entity, and any attribution of rights involved, such as a copy of an extract from a register of commerce. A Contracting Party may also require that the copy be certified, at the option of the requesting party, by the authority which issued the document or by a notary public or any other competent public authority or, where permitted under the applicable law, by a representative having the right to practice before the Office, as being in conformity with the original document.

因合併、法人之重組或分割而為申請人或專利權人之變更者，締約會員得要求該請求附隨一文件，該文件出自於權責機構，證明合併、法人之重組或分割及相關權利之歸屬，例如商業註冊簿摘錄之影本。締約會員亦得要求該文件在該請求之當事人自由選擇下，由出具文件之專責機構、公證人或其他政府主管機關，或其適用法律准許者，由有權於局執行業務之代理人予以證明與原始文件一致。

- (c) Where the change in applicant or owner does not result from a contract, a merger, or the reorganization or division of a legal entity, but results from another ground, for example, by operation of law or a court decision, a Contracting Party may require that the request be accompanied by a copy of a document evidencing the change. A Contracting Party may also require that the copy be certified as being in conformity with the original document, at the option of the requesting party, by the authority which issued the document or by a notary public or any other competent public authority or, where permitted under the applicable law, by a representative having the right to practice before the Office.

申請人或專利權人之變更，非起因於契約、合併、法人之重組或分割，

而係基於其他原因者，例如法律之效力或法院判決，締約會員得要求該請求附隨證明變更之文件影本。締約會員亦得要求該文件須經證明與原始文件一致，在該請求之當事人自由選擇下，由發給文件之權責機構、公證人或任何其他政府機關，或在其適用法律准許時，由有權於局執行業務之代理人予以證明。

- (d) Where the change is in the person of one or more but not all of several co-applicants or co-owners, a Contracting Party may require that evidence of the consent to the change of any co-applicant or co-owner in respect of whom there is no change be provided to the Office.

申請人或專利權人之變更係數個共同申請人或共同專利權人中的一個或多個，而非全部者，締約會員得要求向局提供未變更之任何共同申請人或共同專利權人同意此項變更之證明。

- (3) [Translation]
〔譯本〕

A Contracting Party may require a translation of any document filed under paragraph (2) that is not in a language accepted by the Office.
締約會員得要求依本條第二項提出之任何文件，非使用局所接受之語言者須提交譯本。

- (4) [Fees]
〔費用〕

A Contracting Party may require that a fee be paid in respect of a request referred to in paragraph (1).
締約會員得要求有關本條第一項之請求，須繳納費用。

- (5) [Single Request]
〔單一請求〕

A single request shall be sufficient even where the change relates to more than one application or patent of the same person, or to one or more applications and one or more patents of the same person, provided that the change in applicant or owner is the same for all applications and patents concerned, and the numbers of all applications

and patents concerned are indicated in the request. A Contracting Party may require that, where that single request is filed on paper or as otherwise permitted by the Office, a separate copy thereof be filed for each application and patent to which it relates.

即使同一人有超過一項之申請或專利，或同一人有一項或多項申請及一項或多項專利要變更，如該項申請人或專利權人之變更，於所有相關申請及專利為相同，且請求書中已敘明所有相關申請及專利之案號，一份單一請求書即已足夠。該單一請求以書面或其他由局所允許之方式提出者，締約會員得要求對每一相關之申請案及專利提出一份影本。

(6) [*Evidence*]

[證據]

A Contracting Party may require that evidence, or further evidence in the case of paragraph (2), be filed with the Office only where that Office may reasonably doubt the veracity of any indication contained in the request or in any document referred to in the present Rule, or the accuracy of any translation referred to in paragraph (3).

僅於局得合理懷疑包括於請求中之任何說明或於任何依現行施行細則提交之文件之真實性，或本條第三項所稱任何譯本之正確性者，締約會員得要求向局提出證據，或在本條第二項的情形提出進一步證據。

(7) [*Prohibition of Other Requirements*]

[其他要件之禁止]

No Contracting Party may require that formal requirements other than those referred to in paragraphs (1) to (6) be complied with in respect of the request referred to in this Rule, except where otherwise provided for by the Treaty or prescribed in these Regulations.

除條約或施行細則另有規定外，締約會員不得要求本施行細則規定之請求，須符合本條第一項至第六項規定要件以外之形式要件。

(8) [*Notification; Non-Compliance with Requirements*]

[通知； 不符合要件]

Rule 15(6) and (7) shall apply, *mutatis mutandis*, where one or more of the requirements applied under paragraphs (1) to (5) are not complied with, or where evidence, or further evidence, is required under

paragraph (6).

不符合本條第一項至第五項所適用之一項或多項要件，或依本條第六項應提供證據或進一步證據者，準用施行細則第十五條第六項及第七項。

(9) [*Exclusion with Respect to Inventorship*]

[有關發明人資格之排除]

A Contracting Party may exclude the application of this Rule in respect of changes in inventorship. What constitutes inventorship shall be determined under the applicable law.

有關發明人資格之變更，締約會員得排除本施行細則之適用。發明人之資格，應依適用法律之規定。

Rule 17

Request for Recordation of a License or a Security Interest

第十七條 授權或利益擔保之記載請求

(1) [Request for Recordation of a License]

[授權記載之請求]

- (a) Where a license in respect of an application or patent may be recorded under the applicable law, the Contracting Party shall accept that a request for recordation of that license be made in a communication signed by the licensor or the licensee and containing the following indications:

有關申請案或專利之授權，依其適用法律得予記載者，締約會員應接受由授權人或被授權人簽署，於通訊中所為該授權記載之請求，且敘明下列事項：

- (i) an indication to the effect that a recordation of a license is requested;
關於要求記載授權之說明；
- (ii) the number of the application or patent concerned;
相關申請案或專利之案號；

- (iii) the name and address of the licensor;
授權人之姓名及地址；
- (iv) the name and address of the licensee;
被授權人之姓名及地址；
- (v) an indication of whether the license is an exclusive license or a non-exclusive license;
授權為專屬授權或非專屬授權之說明；
- (vi) the name of a State of which the licensee is a national if he is the 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.
被授權人如為任一國家之國民，該國家之名稱；被授權人住所所在國家之國名（如果有的話），及被授權人有真正且有效的工商營業所所在之國家名稱（如果有的話）。

(b) A Contracting Party may require that the request contain:

締約會員得要求該請求包括下列事項：

- (i) a statement that the information contained in the request is true and correct;
該請求中所載之內容為真實且正確之聲明；
- (ii) information relating to any government interest by that Contracting Party;
有關該締約會員之任何政府利益之資訊；
- (iii) information relating to the registration of the license, where registration is compulsory under the applicable law;
註冊依適用法律具有強制性者，有關授權註冊之資訊；
- (iv) the date of the license and its duration.
授權之日期及其存續期間。

(2) [Documentation of the Basis of the License]

[授權根據之文件]

- (a) Where the license is a freely concluded agreement, a Contracting Party may require that the request be accompanied, at the option of the requesting party, by one of the following:

授權係自由締結之契約者，在請求之當事人自由選擇下，締約會員得要求該請求附送下列事項之一：

- (i) a copy of the agreement, which copy may be required to be certified, at the option of the requesting party, by a notary public or any other competent public authority or, where permitted under the applicable law, by a representative having the right to practice before the Office, as being in conformity with the original agreement;

契約之影本，該影本得要求須經認證與原始契約一致，該認證得在請求之當事人自由選擇下，由公證人或任何其他政府主管機關，或其適用法律准許者，由有權於局執行業務之代理人予以證明；

- (ii) an extract of the agreement consisting of those portions of that agreement which show the rights licensed and their extent, which extract may be required to be certified, at the option of the requesting party, by a notary public or any other competent public authority or, where permitted under the applicable law, by a representative having the right to practice before the Office, as being a true extract of the agreement.

顯示所授與權利及其範圍之契約摘錄，該摘錄得要求須經認證為契約之真實摘錄，該認證得在請求之當事人自由選擇下，由公證人或其他政府主管機關，或其適用法律准許者，由有權於局執行業務之代理人予以證明。

- (b) A Contracting Party may require, where the license is a freely concluded agreement, that any applicant, owner, exclusive licensee, co-applicant, co-owner or co-exclusive licensee who is not party to that agreement give his consent to the recordation of the agreement in a communication to the Office.

授權係自由締結之契約者，締約會員得要求非授權契約當事人之任何申請人、專利權人、專屬被授權人、共同申請人、共同專利權人或共

同專屬被授權人，須向局以通訊對該契約之記載表示同意。

- (c) Where the license is not a freely concluded agreement, for example, it results from operation of law or a court decision, a Contracting Party may require that the request be accompanied by a copy of a document evidencing the license. A Contracting Party may also require that the copy be certified as being in conformity with the original document, at the option of the requesting party, by the authority which issued the document or by a notary public or any other competent public authority or, where permitted under the applicable law, by a representative having the right to practice before the Office.

授權並非自由締結之契約者，例如係因法律之運作或法院判決者，締約會員得要求該請求須附送證明授權之文件影本。締約會員亦得要求該文件須經驗證與原始文件一致，該驗證在請求當事人之自由選擇下，由發給文件之機關、公證人或其他政府主管機關，或其適用法律准許時，由有權於局執行業務之代理人予以證明。

- (3) [*Translation*]
〔譯本〕

A Contracting Party may require a translation of any document filed under paragraph (2) that is not in a language accepted by the Office.
締約會員得要求依本條第二項提出之任何文件，非使用局所接受語言者須提交譯本。

- (4) [*Fees*]
〔費用〕

A Contracting Party may require that a fee be paid in respect of a request referred to in paragraph (1).
締約會員得要求有關本條第一項之請求，須繳納費用。

- (5) [*Single Request*]
〔單一請求〕

Rule 16(5) shall apply, *mutatis mutandis*, to requests for recordation of a license.

施行細則第十六條第五項於授權記載之請求時準用之。

(6) [Evidence]

〔證據〕

Rule 16(6) shall apply, *mutatis mutandis*, to requests for recordation of a license.

施行細則第十六條第六項於授權記載之請求時準用之。

(7) [Prohibition of Other Requirements]

〔其他要件之禁止〕

No Contracting Party may require that formal requirements other than those referred to in paragraphs (1) to (6) be complied with in respect of the request referred to in paragraph (1), except where otherwise provided for by the Treaty or prescribed in these Regulations.

除條約或施行細則另有規定外，締約會員不得要求本條第一項規定之請求，須符合本條第一項至第六項規定要件以外之形式要件。

(8) [Notification; Non-Compliance with Requirements]

〔通知； 不符合要件〕

Rule 15(6) and (7) shall apply, *mutatis mutandis*, where one or more of the requirements applied under paragraphs (1) to (5) are not complied with, or where evidence, or further evidence, is required under paragraph (6).

當不符合本條第一項至第五項所適用之一項或多項要件，或依本條第六項必須提出證據或進一步證據者，應準用施行細則第十五條第六項及第七項。

(9) [Request for Recordation of a Security Interest or Cancellation of the Recordation of a License or a Security Interest]

〔利益擔保之記載請求或授權或利益擔保取消記載請求〕

Paragraphs (1) to (8) shall apply, *mutatis mutandis*, to requests for:

本條第一項至第八項之規定，於下列之請求應準用之：

- (i) recordation of a security interest in respect of an application or

patent;
有關申請案或專利之利益擔保之記載；

- (ii) cancellation of the recordation of a license or a security interest in respect of an application or patent.
有關申請案或專利之授權或利益擔保記載之取消。

Rule 18

Request for Correction of a Mistake

第十八條 更正錯誤之請求

- (1) [*Request*]
〔請求〕

- (a) Where an application, a patent or any request communicated to the Office in respect of an application or a patent contains a mistake, not related to search or substantive examination, which is correctable by the Office under the applicable law, the Office shall accept that a request for correction of that mistake in the records and publications of the Office be made in a communication to the Office signed by the applicant or owner and containing the following indications:

申請、專利或任何與申請或專利有關之對局通訊請求之內容有錯誤，該錯誤與檢索或實質審查無關，且局依適用法律可接受更正者，局應接受於局之紀錄或公告中之該錯誤之更正請求，對局之該請求之通訊應由申請人或專利權人簽名，且包括下列事項：

- (i) an indication to the effect that a correction of mistake is requested;
請求更正錯誤之說明；
- (ii) the number of the application or patent concerned;
相關申請案或專利之案號；
- (iii) the mistake to be corrected;
須更正之錯誤；

(iv) the correction to be made;
擬作出之更正；

(v) the name and address of the requesting party.
請求當事人之姓名及地址。

(b) A Contracting Party may require that the request be accompanied by a replacement part or part incorporating the correction or, where paragraph (3) applies, by such a replacement part or part incorporating the correction for each application and patent to which the request relates.

締約會員得要求該請求附送替代部分或含有更正之部分，或如本條第三項適用，每一申請及專利之替代部分或含有更正之部分。

(c) A Contracting Party may require that the request be subject to a declaration by the requesting party stating that the mistake was made in good faith.

締約會員得要求請求當事人聲明錯誤係出於善意。

(d) A Contracting Party may require that the request be subject to a declaration by the requesting party stating that the said request was made without undue delay or, at the option of the Contracting Party, that it was made without intentional delay, following the discovery of the mistake.

締約會員得要求請求當事人聲明，表示於發現錯誤後，該請求並無不當的遲延，或在締約會員之選擇下，該請求並無故意之遲延。

(2) [Fees]

[費用]

(a) Subject to subparagraph (b), a Contracting Party may require that a fee be paid in respect of a request under paragraph (1).

除本項第 b 款之規定外，締約會員得要求有關本條第一項之請求，須繳納費用。

(b) The Office shall correct its own mistakes, *ex officio* or upon request, for no fee.

局應依職權或根據請求，免費更正自己的錯誤。

(3) [*Single Request*]

〔單一請求〕

Rule 16(5) shall apply, *mutatis mutandis*, to requests for correction of a mistake, provided that the mistake and the requested correction are the same for all applications and patents concerned.

如錯誤與請求之更正對所有相關之申請案或專利均為相同，有關更正錯誤之請求應準用施行細則第十六條第五項。

(4) [*Evidence*]

〔證據〕

A Contracting Party may only require that evidence in support of the request be filed with the Office where the Office may reasonably doubt that the alleged mistake is in fact a mistake, or where it may reasonably doubt the veracity of any matter contained in, or of any document filed in connection with, the request for correction of a mistake.

締約會員僅於局得合理懷疑該聲稱之錯誤事實上是錯誤的，或其得合理懷疑任何事項或所提出相關文件之真實性時，得要求向局提出支持該更正錯誤之請求的證據。

(5) [*Prohibition of Other Requirements*]

〔其他要件之禁止〕

No Contracting Party may require that formal requirements other than those referred to in paragraphs (1) to (4) be complied with in respect of the request referred to in paragraph (1), except where otherwise provided for by the Treaty or prescribed in these Regulations.

除條約或施行細則另有規定外，締約會員不得要求本條第一項規定之請求，須符合本條第一項至第四項規定要件以外之形式要件。

(6) [*Notification: Non-Compliance with Requirements*]

〔通知； 不符合要件〕

Rule 15(6) and (7) shall apply, *mutatis mutandis*, where one or more of the requirements applied under paragraphs (1) to (3) are not complied

with, or where evidence is required under paragraph (4).

不符合本條第一項至第三項所適用之一項或多項要件，或依本條第四項應提供證據者，應準用施行細則第十五條第六項及第七項之規定。

(7) [*Exclusions*]

〔排除規定〕

- (a) A Contracting Party may exclude the application of this Rule in respect of changes in inventorship. What constitutes inventorship shall be determined under the applicable law.

有關發明人資格之變更，締約會員得排除本施行細則之適用。發明人之資格，應依適用法律之規定。

- (b) A Contracting Party may exclude the application of this Rule in respect of any mistake which must be corrected in that Contracting Party under a procedure for reissue of the patent.

有關依締約會員之程序，須重新發給專利方可更正之任何錯誤，締約會員得排除本施行細則之適用。

Rule 19

Manner of Identification of an Application Without Its Application Number

第十九條 無申請案號時申請案之識別方式

(1) [*Manner of Identification*]

〔識別方式〕

Where it is required that an application be identified by its application number, but such a number has not yet been issued or is not known to the person concerned or his representative, the application shall be considered identified if one of the following is supplied, at that person's option:

一申請案須標明申請案號，但該申請案號尚未賦予，或尚不為相關人士或其代理人所知者，在該人之選擇下，如已提供下列事項之一，該申請案應視為已標明：

- (i) a provisional number for the application, if any, given by the Office;
局賦予之臨時申請案號（如果有的話）；
- (ii) a copy of the request part of the application along with the date on which the application was sent to the Office;
一份附有申請案送交局日期之申請案的請求部分副本；
- (iii) a reference number given to the application by the applicant or his representative and indicated in the application, along with the name and address of the applicant, the title of the invention and the date on which the application was sent to the Office.
由申請人或其代理人給予並顯示於申請案上之參考案號，且附有申請人之姓名及地址、發明名稱及申請案送交局之日期。

(2) [*Prohibition of Other Requirements*]

〔其他要件之禁止〕

No Contracting Party may require that identification means other than those referred to in paragraph (1) be supplied in order for an application to be identified where its application number has not yet been issued or is not known to the person concerned or his representative.

申請案號尚未發給或尚不為關係人或其代理人所知者，締約會員不得要求提供本條第一項以外之標示方法識別一申請案。

Rule 20

Establishment of Model International Forms

第二十條 示範之國際表格之建立

(1) [*Model International Forms*]

〔示範之國際表格〕

The Assembly shall, under Article 14(1)(c), establish Model International Forms, in each of the languages referred to in Article 25(1), in respect of:

大會應依第十四條第一項第 c 款規定，以第二十五條第一項規定之每一種語言就下列有關之事項，建立示範之國際表格：

- (i) a power of attorney;
委任書；
 - (ii) a request for recordation of change in name or address;
變更姓名或地址之記載之請求；
 - (iii) a request for recordation of change in applicant or owner;
變更申請人或專利權人之記載之請求；
 - (iv) a certificate of transfer;
移轉證明；
 - (v) a request for recordation, or cancellation of recordation, of a license;
記載授權或記載撤銷授權之請求；
 - (vi) a request for recordation, or cancellation of recordation, of a security interest;
利益擔保之記載或撤銷記載之請求；
 - (vii) a request for correction of a mistake.
更正錯誤之請求。
- (2) [*Modifications Referred to in Rule 3(2)(i)*]
〔依施行細則第三條第二項第 i 款之修改〕

The Assembly shall establish the modifications of the Patent Cooperation Treaty request Form referred to in Rule 3(2)(i).

大會應對施行細則第三條第二項第 i 目所指專利合作條約請求書作出修改。

- (3) [*Proposals by the International Bureau*]
〔國際局之提案〕

The International Bureau shall present proposals to the Assembly

concerning:

國際局應向大會提出有關下列事項之提案：

- (i) the establishment of Model International Forms referred to in paragraph (1);
本條第一項所指示範之國際表格之建立；
- (ii) the modifications of the Patent Cooperation Treaty request Form referred to in paragraph (2).
本條第二項所指專利合作條約請求書之修改。

Rule 21

Requirement of Unanimity Under Article 14(3)

第二十一條 第十四條第三項所定全體同意之要件

Establishment or amendment of the following Rules shall require unanimity:
對下列施行細則之訂定或修訂，應經全體同意：

- (i) any Rules under Article 5(1)(a);
第五條第一項第 a 款之任何相關施行細則；
- (ii) any Rules under Article 6(1)(iii);
第六條第一項第 iii 目之任何相關施行細則；
- (iii) any Rules under Article 6(3);
第六條第三項之任何相關施行細則；
- (iv) any Rules under Article 7(2)(a)(iii);
第七條第二項第 a 款第 iii 目之任何相關施行細則；
- (v) Rule 8(1)(a);
施行細則第八條第一項第 a 款規定；
- (vi) The present Rule
本條。

附錄：專利法條約施行細則部分修正條文（二〇〇六年一月一日生效）

Rule 3

Details Concerning the Application Under Article 6(1), (2) and (3)

第三條 有關第六條第一項、第二項及第三項所稱申請之細節

(1) [Further Requirements Under Article 6(1)(iii)]

[第六條第一項第 iii 目所稱之其他要件]

- (a) A Contracting Party may require that an applicant who wishes an application to be treated as a divisional application under Rule 2(6)(i) indicate:

締約會員得要求欲將申請案作為依施行細則第二條第六項第 i 目規定之分割申請處理之申請人敘明下列情事：

- (i) that he wishes the application to be so treated;
其欲將該申請為如此處理；
- (ii) the number and filing date of the application from which the application is divided.
該分割申請之原申請案之案號及申請日。

- (b) A Contracting Party may require that an applicant who wishes an application to be treated as an application under Rule 2(6)(iii) indicate:

締約會員得要求欲將申請案作為依施行細則第二條第六項第 iii 目規定之申請案處理之申請人敘明下列情事：

- (i) that he wishes the application to be so treated;
其欲將該申請為如此處理；
- (ii) the number and filing date of the earlier application.
先申請案之案號及申請日。

- (c) A Contracting Party may require that an applicant who wishes an

application to be treated as an application for a patent of addition indicate:

締約會員得要求欲將申請案作為追加專利申請案處理之申請人敘明下列情事：

- (i) that he wishes the application to be so treated;
其欲將該申請為如此處理；
- (ii) the number and filing date of the parent application.
母案之案號及申請日。

(d) A Contracting Party may require that an applicant who wishes an application to be treated as an application for the continuation or the continuation-in-part of an earlier application indicate:

締約會員得要求欲將申請案作為一個先申請案的連續申請案或部分連續申案處理之申請人敘明下列情事：

- (i) that he wishes the application to be so treated;
其欲將該申請為如此處理；
- (ii) the number and filing date of the earlier application.
先申請案之案號及申請日。

(e) Where a Contracting Party is an intergovernmental organization, it may require that an applicant indicate:

締約會員如係一政府間之組織者，得要求申請人敘明下列情事：

- (i) a petition that the applicant wishes to obtain a regional patent;
申請人欲將獲得區域專利之申請書；
- (ii) the member States of that intergovernmental organization in which protection for the invention is sought.
該發明尋求政府間組織之哪幾個成員國之保護。

Rule 6

Time Limits Concerning the Application Under Article 6(7) and (8)

第六條 有關第六條第七項及第八項所稱申請之期限

- (3) [Time Limits Under Article 6(7) and (8) Relating to Payment of Application Fee in Accordance with the Patent Cooperation Treaty]
〔有關第六條第七項及第八項依專利合作條約規定繳納申請費用之期限〕

Where any fees required to be paid under Article 6(4) in respect of the filing of the application are not paid, a Contracting Party may, under Article 6(7) and (8), apply time limits for payment, including late payment, which are the same as those applicable under the Patent Cooperation Treaty in relation to the international filing fee.

依據第六條第四項有關申請應繳納之任何費用尚未繳納者，締約會員得依第六條第七項及第八項適用與專利合作條約有關國際申請費所適用之相同繳納期限，包括延遲繳納之狀況。