

No. 31699

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**MULTILATERAL**

**Budapest Treaty on the international recognition of the deposit of microorganisms for the purposes of patent procedure (with regulations). Concluded at Budapest on 28 April 1977**

**Amendments of the Regulations to the above-mentioned Treaty**

**Amendment to the above-mentioned Treaty**

*Authentic texts: English and French.*

*The Treaty and the certified statements were registered by the Director-General of the World Intellectual Property Organization, acting on behalf of the Parties, on 28 March 1995.*

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**MULTILATÉRAL**

**Traité de Budapest sur la reconnaissance internationale du dépôt des micro-organismes aux fins de la procédure en matière de brevets (avec règlement d'exécution). Conclu à Budapest le 28 avril 1977**

**Amendements du Règlement d'exécution au Traité susmentionné**

**Amendement au Traité susmentionné**

*Textes authentiques : anglais et français.*

*Le Traité et les déclarations certifiées ont été enregistrés par le Directeur général de l'Organisation mondiale de la propriété intellectuelle, agissant au nom des Parties, le 28 mars 1995.*

# BUDAPEST TREATY<sup>1</sup> ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PUR- POSES OF PATENT PROCEDURE

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\* This Table of Contents does not appear in the original text.

<sup>1</sup> Came into force on 19 August 1980, i.e., three months after the date of deposit with the Director-General of the World Intellectual Property Organization of the fifth instrument of ratification or accession by a member State of the International (Paris) Union for the Protection of Industrial Property, in accordance with article 16 (1):

<i>Participant</i>	<i>Date of deposit of the instrument of ratification or accession (a)</i>	<i>Participant</i>	<i>Date of deposit of the instrument of ratification or accession (a)</i>
Bulgaria.....	19 July 1978	Japan .....	19 May 1980 <sup>a</sup>
France .....	21 February 1980	United States of America .....	24 September 1979
Hungary .....	11 July 1978		

*(Continued on page 363)*

(Footnote 1 continued from page 362)

Subsequently, the Treaty came into force for the following States three months after the date of deposit with the Director-General of the World Intellectual Property Organization of their instrument of ratification or accession, in accordance with article 16 (2):

<i>Participant</i>	<i>Date of deposit of the instrument of ratification or accession (a)</i>	<i>Participant</i>	<i>Date of deposit of the instrument of ratification or accession (a)</i>
United Kingdom of Great Britain and Northern Ireland.....	29 September 1980 (With effect from 29 December 1980.)	Netherlands .....	2 April 1987 (For the Kingdom in Europe, the Netherlands Antilles and Aruba. With effect from 2 July 1987.)
Germany, Federal Republic of.....	20 October 1980 (With effect from 20 January 1981. With a declaration of application to Berlin (West).)	Australia .....	7 April 1987 a (With effect from 7 July 1987.)
Spain.....	19 December 1980 (With effect from 19 March 1981.)	Republic of Korea .....	28 December 1987 a (With effect from 28 March 1988.)
Union of Soviet Socialist Republics* .....	22 January 1981 (With effect from 22 April 1981.)	German Democratic Republic** ....	27 April 1989 a (With effect from 27 July 1989.)
Switzerland.....	19 May 1981 (With effect from 19 August 1981.)	Czechoslovakia .....	5 May 1989 a (With effect from 5 August 1989.)
Liechtenstein.....	19 May 1981 a (With effect from 19 August 1981.)	Poland .....	22 June 1993 a (With effect from 22 September 1993.)
Philippines .....	21 July 1981 a (With effect from 21 October 1981.)	Greece .....	30 July 1993 a (With effect from 30 October 1993.)
Sweden.....	23 June 1983 (With effect from 1 October 1983.)	Cuba .....	19 November 1993 a (With effect from 19 February 1994.)
Belgium .....	15 September 1983 a (With effect from 15 December 1983.)	Yugoslavia.....	25 November 1993 a (With effect from 25 February 1994.)
Austria .....	26 January 1984 (With effect from 26 April 1984.)	Trinidad and Tobago .....	10 December 1993 a (With effect from 10 March 1994.)
Denmark .....	1 April 1985 (With effect from 1 July 1985.)	Latvia .....	29 September 1994 a (With effect from 29 December 1994.)
Finland .....	1 June 1985 (With effect from 1 September 1985.)	Singapore .....	23 November 1994 a (With effect from 23 February 1995.)
Norway .....	1 October 1985 (With effect from 1 January 1986.)	Iceland.....	23 December 1994 a (With effect from 23 March 1995.)
Italy .....	23 December 1985 (With effect from 23 March 1986.)		

\* Continued by the Russian Federation as from 25 December 1991.

\*\* Through the accession of the German Democratic Republic to the Federal Republic of Germany effective 3 October 1990, the German Democratic Republic ceased to be a Party to the above-mentioned Treaty.

In addition, the following notifications of succession were effected with the Director-General of the World Intellectual Property Organization on the dates indicated hereafter:

18 December 1992

Czech Republic  
(With effect from 1 January 1993.)

30 December 1992

Slovakia  
(With effect from 1 January 1993.)

14 February 1994

Republic of Moldova  
Tajikistan  
(With effect from 25 December 1991.)

Furthermore, the following declaration of acceptance under article 9(1) (a) was received by the Director-General of the World Intellectual Property Organization on the date indicated hereafter:

26 August 1980

European Patent Organization  
(With effect from 26 November 1980.)

## INTRODUCTORY PROVISIONS

**Article 1****Establishment of a Union**

The States party to this Treaty (hereinafter called "the Contracting States") constitute a Union for the international recognition of the deposit of microorganisms for the purposes of patent procedure.

**Article 2****Definitions**

For the purposes of this Treaty and the Regulations:

(i) references to a "patent" shall be construed as references to patents for inventions, inventors' certificates, utility certificates, utility models, patents or certificates of addition, inventors' certificates of addition, and utility certificates of addition;

(ii) "deposit of a microorganism" means, according to the context in which these words appear, the following acts effected in accordance with this Treaty and the Regulations; the transmittal of a microorganism to an international depositary authority, which receives and accepts it, or the storage of such a microorganism by the international depositary authority, or both the said transmittal and the said storage;

(iii) "patent procedure" means any administrative or judicial procedure relating to a patent application or a patent;

(iv) "publication for the purposes of patent procedure" means the official publication, or the official laying open for public inspection, of a patent application or a patent;

(v) "intergovernmental industrial property organization" means an organization that has filed a declaration under Article 9(1);

(vi) "industrial property office" means an authority of a Contracting State or an intergovernmental industrial property organization competent for the grant of patents;

(vii) "depository institution" means an institution which provides for the receipt, acceptance and storage of microorganisms and the furnishing of samples thereof;

(viii) "international depositary authority" means a depository institution which has acquired the status of international depositary authority as provided in Article 7;

(ix) "depositor" means the natural person or legal entity transmitting a microorganism to an international depositary authority, which receives and accepts it, and any successor in title of the said natural person or legal entity;

(x) "Union" means the Union referred to in Article 1;

(xi) "Assembly" means the Assembly referred to in Article 10;

(xii) "Organization" means the World Intellectual Property Organization;

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

(xiv) "Director General" means the Director General of the Organization;

(xv) "Regulations" means the Regulations referred to in Article 12.

## CHAPTER 1

## SUBSTANTIVE PROVISIONS

**Article 3****Recognition and Effect of the Deposit of Microorganisms**

(1) (a) Contracting States which allow or require the deposit of microorganisms for the purposes of patent procedure shall recognize, for such purposes, the deposit of a microorganism with any international depositary authority. Such recognition shall include the recognition of the fact and date of the deposit as indicated by the international depositary authority as well as the recognition of the fact that what is furnished as a sample is a sample of the deposited microorganism.

(b) Any Contracting State may require a copy of the receipt of the deposit referred to in subparagraph (a), issued by the international depositary authority.

(2) As far as matters regulated in this Treaty and the Regulations are concerned, no Contracting State may require compliance with requirements different from or additional to those which are provided in this Treaty and the Regulations.

**Article 4****New Deposit**

(1) (a) Where the international depositary authority cannot furnish samples of the deposited microorganism for any reason, in particular,

(i) where such microorganism is no longer viable, or

(ii) where the furnishing of samples would require that they be sent abroad and the sending or the receipt of the samples abroad is prevented by export or import restrictions,

that authority shall, promptly after having noted its

inability to furnish samples, notify the depositor of such inability, indicating the cause thereof, and the depositor, subject to paragraph (2) and as provided in this paragraph, shall have the right to make a new deposit of the microorganism which was originally deposited.

(b) The new deposit shall be made with the international depository authority with which the original deposit was made, provided that:

(i) it shall be made with another international depository authority where the institution with which the original deposit was made has ceased to have the status of international depository authority, either entirely or in respect of the kind of microorganism to which the deposited microorganism belongs, or where the international depository authority with which the original deposit was made discontinues, temporarily or definitively, the performance of its functions in respect of deposited microorganisms;

(ii) it may be made with another international depository authority in the case referred to in subparagraph (a) (ii).

(c) Any new deposit shall be accompanied by a statement signed by the depositor alleging that the newly deposited microorganism is the same as that originally deposited. If the allegation of the depositor is contested, the burden of proof shall be governed by the applicable law.

(d) Subject to subparagraphs (a) to (c) and (e), the new deposit shall be treated as if it had been made on the date on which the original deposit was made where all the preceding statements concerning the viability of the originally deposited microorganism indicated that the microorganism was viable and where the new deposit was made within three months after the date on which the depositor received the notification referred to in subparagraph (a).

(e) Where subparagraph (b) (i) applies and the depositor does not receive the notification referred to in subparagraph (a) within six months after the date on which the termination, limitation or discontinuance referred to in subparagraph (b) (i) was published by the International Bureau, the three-month time limit referred to in subparagraph (d) shall be counted from the date of the said publication.

(2) The right referred to in paragraph (1) (a) shall not exist where the deposited microorganism has been transferred to another international depository authority as long as that authority is in a position to furnish samples of such microorganism.

## Article 5

### Export and Import Restrictions

Each Contracting State recognizes that it is highly desirable that, if and to the extent to which the export from or import into its territory of certain kinds of microorganisms is restricted, such restriction should apply to microorganisms deposited, or destined for deposit, under this Treaty only where the restriction is necessary in view of national security or the dangers for health or the environment.

## Article 6

### Status of International Depository Authority

(1) In order to qualify for the status of international depository authority, any depository institution must be located on the territory of a Contracting State and must benefit from assurances furnished by that State to the effect that the said institution complies and will continue to comply with the requirements specified in paragraph (2). The said assurances may be furnished also by an intergovernmental industrial property organization; in that case, the depository institution must be located on the territory of a State member of the said organization.

(2) The depository institution must, in its capacity of international depository authority:

(i) have a continuous existence;

(ii) have the necessary staff and facilities, as prescribed in the Regulations, to perform its scientific and administrative tasks under this Treaty;

(iii) be impartial and objective;

(iv) be available, for the purposes of deposit, to any depositor under the same conditions;

(v) accept for deposit any or certain kinds of microorganisms, examine their viability and store them, as prescribed in the Regulations;

(vi) issue a receipt to the depositor, and any required viability statement, as prescribed in the Regulations;

(vii) comply, in respect of the deposited microorganisms, with the requirement of secrecy, as prescribed in the Regulations;

(viii) furnish samples of any deposited microorganism under the conditions and in conformity with the procedure prescribed in the Regulations.

(3) The Regulations shall provide the measures to be taken:

(i) where an international depositary authority discontinues, temporarily or definitively, the performance of its functions in respect of deposited microorganisms or refuses to accept any of the kinds of microorganisms which it should accept under the assurances furnished;

(ii) in case of the termination or limitation of the status of international depositary authority of an international depositary authority.

#### Article 7

##### Acquisition of the Status of International Depositary Authority

(1)(a) A depositary institution shall acquire the status of international depositary authority by virtue of a written communication addressed to the Director General by the Contracting State on the territory of which the depositary institution is located and including a declaration of assurances to the effect that the said institution complies and will continue to comply with the requirements specified in Article 6(2). The said status may be acquired also by virtue of a written communication addressed to the Director General by an intergovernmental industrial property organization and including the said declaration.

(b) The communication shall also contain information on the depositary institution as provided in the Regulations and may indicate the date on which the status of international depositary authority should take effect.

(2)(a) If the Director General finds that the communication includes the required declaration and that all the required information has been received, the communication shall be promptly published by the International Bureau.

(b) The status of international depositary authority shall be acquired as from the date of publication of the communication or, where a date has been indicated under paragraph (1)(b) and such date is later than the date of publication of the communication, as from such date.

(3) The details of the procedure under paragraphs (1) and (2) are provided in the Regulations.

#### Article 8

##### Termination and Limitation of the Status of International Depositary Authority

(1)(a) Any Contracting State or any intergovernmental industrial property organization may request the Assembly to terminate, or to limit to certain kinds of microorganisms, any authority's status of international depositary authority on the ground that the requirements specified in Article 6 have not been or are no longer complied with. However, such a request may not be made by a Contracting State or intergovernmental industrial property organization in respect of an international depositary authority for which it has made the declaration referred to in Article 7(1)(a).

(b) Before making the request under subparagraph (a), the Contracting State or the intergovernmental industrial property organization shall, through the intermediary of the Director General, notify the reasons for the proposed request to the Contracting State or the intergovernmental industrial property organization which has made the communication referred to in Article 7(1) so that that State or organization may, within six months from the date of the said notification, take appropriate action to obviate the need for making the proposed request.

(c) Where the Assembly finds that the request is well founded, it shall decide to terminate, or to limit to certain kinds of microorganisms, the status of international depositary authority of the authority referred to in subparagraph (a). The decision of the Assembly shall require that a majority of two-thirds of the votes cast be in favor of the request.

(2)(a) The Contracting State or intergovernmental industrial property organization having made the declaration referred to in Article 7(1)(a) may, by a communication addressed to the Director General, withdraw its declaration either entirely or in respect only of certain kinds of microorganisms and in any event shall do so when and to the extent that its assurances are no longer applicable.

(b) Such a communication shall, from the date provided for in the Regulations, entail, where it relates to the entire declaration, the termination of the status of international depositary authority or, where it relates only to certain kinds of microorganisms, a corresponding limitation of such status.

(3) The details of the procedure under paragraphs (1) and (2) are provided in the Regulations.

## Article 9

### Intergovernmental Industrial Property Organizations

(1)(a) Any intergovernmental organization to which several States have entrusted the task of granting regional patents and of which all the member States are members of the International (Paris) Union for the Protection of Industrial Property may file with the Director General a declaration that it accepts the obligation of recognition provided for in Article 3(1)(a), the obligation concerning the requirements referred to in Article 3(2) and all the effects of the provisions of this Treaty and the Regulations applicable to intergovernmental industrial property organizations. If filed before the entry into force of this Treaty according to Article 16(1), the declaration referred to in the preceding sentence shall become effective on the date of the said entry into force. If filed after such entry into force, the said declaration shall become effective three months after its filing unless a later date has been indicated in the declaration. In the latter case, the declaration shall take effect on the date thus indicated.

(b) The said organization shall have the right provided for in Article 3(1)(b).

(2) Where any provision of this Treaty or of the Regulations affecting intergovernmental industrial property organizations is revised or amended, any intergovernmental industrial property organization may withdraw its declaration referred to in paragraph (1) by notification addressed to the Director General. The withdrawal shall take effect:

(i) where the notification has been received before the date on which the revision or amendment enters into force, on that date;

(ii) where the notification has been received after the date referred to in (i), on the date indicated in the notification or, in the absence of such indication, three months after the date on which the notification was received.

(3) In addition to the case referred to in paragraph (2), any intergovernmental industrial property organization may withdraw its declaration referred to in paragraph (1)(a) by notification addressed to the Director General. The withdrawal shall take effect two years after the date on which the Director General has received the notification. No notification of withdrawal under this paragraph shall be receivable during a period of five years from the date on which the declaration took effect.

(4) The withdrawal referred to in paragraph (2) or (3) by an intergovernmental industrial property organization whose communication under Article 7(1) has led to the acquisition of the status of international depositary authority by a depositary institution shall entail the termination of such status one year after the date on which the Director General has received the notification of withdrawal.

(5) Any declaration referred to in paragraph (1)(a), notification of withdrawal referred to in paragraph (2) or (3), assurances furnished under Article 6(1), second sentence, and included in a declaration made in accordance with Article 7(1)(a), request made under Article 8(1) and communication of withdrawal referred to in Article 8(2) shall require the express previous approval of the supreme governing organ of the intergovernmental industrial property organization whose members are all the States members of the said organization and in which decisions are made by the official representatives of the governments of such States.

## CHAPTER II

### ADMINISTRATIVE PROVISIONS

#### Article 10

##### Assembly

(1)(a) The Assembly shall consist of the Contracting States.

(b) Each Contracting State shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(c) Each intergovernmental industrial property organization shall be represented by special observers in the meetings of the Assembly and any committee and working group established by the Assembly.

(d) Any State not member of the Union which is a member of the Organization or of the International (Paris) Union for the Protection of Industrial Property and any intergovernmental organization specialized in the field of patents other than an intergovernmental industrial property organization as defined in Article 2(v) may be represented by observers in the meetings of the Assembly and, if the Assembly so

decides, in the meetings of any committee or working group established by the Assembly.

(2)(a) The Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Union and the implementation of this Treaty;

(ii) exercise such rights and perform such tasks as are specially conferred upon it or assigned to it under this Treaty;

(iii) give directions to the Director General concerning the preparations for revision conferences;

(iv) review and approve the reports and activities of the Director General concerning the Union, and give him all necessary instructions concerning matters within the competence of the Union;

(v) establish such committees and working groups as it deems appropriate to facilitate the work of the Union;

(vi) determine, subject to paragraph (1)(d), which States other than Contracting States, which intergovernmental organizations other than intergovernmental industrial property organizations as defined in Article 2(v) and which international non-governmental organizations shall be admitted to its meetings as observers and to what extent international depositary authorities shall be admitted to its meetings as observers;

(vii) take any other appropriate action designed to further the objectives of the Union;

(viii) perform such other functions as are appropriate under this Treaty.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3) A delegate may represent, and vote in the name of, one State only.

(4) Each Contracting State shall have one vote.

(5)(a) One-half of the Contracting States shall constitute a quorum.

(b) In the absence of the quorum, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the quorum and the required majority are attained through voting by correspondence as provided in the Regulations.

(6)(a) Subject to Articles 8(1)(c), 12(4) and 14(2)(b), the decisions of the Assembly shall require a majority of the votes cast.

(b) Abstentions shall not be considered as votes.

(7)(a) The Assembly shall meet once in every third calendar year in ordinary session upon convocation by the Director General, preferably during the same period and at the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, either on his own initiative or at the request of one-fourth of the Contracting States.

(8) The Assembly shall adopt its own rules of procedure.

## Article 11

### International Bureau

(1) The International Bureau shall:

(i) perform the administrative tasks concerning the Union, in particular such tasks as are specifically assigned to it under this Treaty and the Regulations or by the Assembly;

(ii) provide the secretariat of revision conferences, of the Assembly, of committees and working groups established by the Assembly, and of any other meeting convened by the Director General and dealing with matters of concern to the Union.

(2) The Director General shall be the chief executive of the Union and shall represent the Union.

(3) The Director General shall convene all meetings dealing with matters of concern to the Union.

(4)(a) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the committees and working groups established by the Assembly, and any other meeting convened by the Director General and dealing with matters of concern to the Union.

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



(5)(a) The Director General shall, in accordance with the directions of the Assembly, make the preparations for revision conferences.

(b) The Director General may consult with inter-governmental and international non-governmental organizations concerning the preparations for revision conferences.

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

(d) The Director General, or a staff member designated by him, shall be ex officio secretary of any revision conference.

#### Article 12

##### Regulations

(1) The Regulations provide rules concerning:

(i) matters in respect of which this Treaty expressly refers to the Regulations or expressly provides that they are or shall be prescribed;

(ii) any administrative requirements, matters or procedures;

(iii) any details useful in the implementation of this Treaty.

(2) The Regulations adopted at the same time as this Treaty are annexed to this Treaty.

(3) The Assembly may amend the Regulations.

(4)(a) Subject to subparagraph (b), adoption of any amendment of the Regulations shall require two-thirds of the votes cast.

(b) Adoption of any amendment concerning the furnishing of samples of deposited microorganisms by the international depositary authorities shall require that no Contracting State vote against the proposed amendment.

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

#### CHAPTER III

##### REVISION AND AMENDMENT

#### Article 13

##### Revision of the Treaty

(1) This Treaty may be revised from time to time by conferences of the Contracting States.

(2) The convocation of any revision conference shall be decided by the Assembly.

(3) Articles 10 and 11 may be amended either by a revision conference or according to Article 14.

#### Article 14

##### Amendment of Certain Provisions of the Treaty

(1)(a) Proposals under this Article for the amendment of Articles 10 and 11 may be initiated by any Contracting State or by the Director General.

(b) Such proposals shall be communicated by the Director General to the Contracting States at least six months in advance of their consideration by the Assembly.

(2)(a) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly.

(b) Adoption of any amendment to Article 10 shall require four-fifths of the votes cast; adoption of any amendment to Article 11 shall require three-fourths of the votes cast.

(3)(a) Any amendment to the Articles referred to in paragraph (1) 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 States members of the Assembly at the time the Assembly adopted the amendment.

(b) Any amendment to the said Articles thus accepted shall bind all the Contracting States which were Contracting States at the time the amendment was adopted by the Assembly, provided that any amendment creating financial obligations for the said Contracting States or increasing such obligations shall bind only those Contracting States which have notified their acceptance of such amendment.

(c) Any amendment which has been accepted and which has entered into force in accordance with subparagraph (a) shall bind all States which become Contracting States after the date on which the amendment was adopted by the Assembly.

#### CHAPTER IV

#### FINAL PROVISIONS

##### Article 15

###### Becoming Party to the Treaty

(1) Any State member of the International (Paris) Union for the Protection of Industrial Property may become party to this Treaty by:

- (i) signature followed by the deposit of an instrument of ratification, or
  - (ii) deposit of an instrument of accession.
- (2) Instruments of ratification or accession shall be deposited with the Director General.

##### Article 16

###### Entry Into Force of the Treaty

(1) This Treaty shall enter into force, with respect to the first five States which have deposited their instruments of ratification or accession, three months after the date on which the fifth instrument of ratification or accession has been deposited.

(2) This Treaty shall enter into force with respect to any other State three months after the date on which that State has deposited its instrument of ratification or accession unless a later date has been indicated in the instrument of ratification or accession. In the latter case, this Treaty shall enter into force with respect to that State on the date thus indicated.

##### Article 17

###### Denunciation of the Treaty

(1) Any Contracting State may denounce this Treaty by notification addressed to the Director General.

(2) Denunciation shall take effect two years after the day on which the Director General has received the notification.

(3) The right of denunciation provided for in paragraph (1) shall not be exercised by any Contracting State before the expiration of five years from the date on which it becomes party to this Treaty.

(4) The denunciation of this Treaty by a Contracting State that has made a declaration referred to in Article 7(1)(a) with respect to a depositary institution which thus acquired the status of international depositary authority shall entail the termination of such status one year after the day on which the Director General received the notification referred to in paragraph (1).

##### Article 18

###### Signature and Languages of the Treaty

(1)(a) This Treaty shall be signed in a single original in the English and French languages, both texts being equally authentic.

(b) Official texts of this Treaty shall be established by the Director General, after consultation with the interested Governments and within two months from the date of signature of this Treaty, in the other languages in which the Convention Establishing the World Intellectual Property Organization<sup>1</sup> was signed.

(c) Official texts of this Treaty shall be established by the Director General, after consultation with the interested Governments, in the Arabic, German, Italian, Japanese and Portuguese languages, and such other languages as the Assembly may designate.

(2) This Treaty shall remain open for signature at Budapest until December 31, 1977.

##### Article 19

###### Deposit of the Treaty; Transmittal of Copies; Registration of the Treaty

(1) The original of this Treaty, when no longer open for signature, shall be deposited with the Director General.

(2) The Director General shall transmit two copies, certified by him, of this Treaty and the Regulations to the Governments of all the States referred to in Article 15(1), to the intergovernmental organiza-

<sup>1</sup> United Nations, *Treaty Series*, vol. 828, p. 3.

tions that may file a declaration under Article 9(1)(a) and, on request, to the Government of any other State.

(3) The Director General shall register this Treaty with the Secretariat of the United Nations.

(4) The Director General shall transmit two copies, certified by him, of any amendment to this Treaty and to the Regulations to all Contracting States, to all intergovernmental industrial property organizations and, on request, to the Government of any other State and to any other intergovernmental organization that may file a declaration under Article 9(1)(a).

#### **Article 20**

##### **Notifications**

The Director General shall notify the Contracting States, the intergovernmental industrial property

organizations and those States not members of the Union which are members of the International (Paris) Union for the Protection of Industrial Property of:

- (i) signatures under Article 18;
- (ii) deposits of instruments of ratification or accession under Article 15(2);
- (iii) declarations filed under Article 9(1)(a) and notifications of withdrawal under Article 9(2) or (3);
- (iv) the date of entry into force of this Treaty under Article 16(1);
- (v) the communications under Articles 7 and 8 and the decisions under Article 8;
- (vi) acceptance of amendments to this Treaty under Article 14(3);
- (vii) any amendment of the Regulations;
- (viii) the dates on which amendments to the Treaty or the Regulations enter into force;
- (ix) denunciations received under Article 17.

*[For the testimonium and signatures, see p. 402 of this volume.]*

REGULATIONS UNDER THE BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

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\* This Table of Contents does not appear in the original text.

### Rule 1

#### Abbreviated Expressions and Interpretation of the Word "Signature"

##### 1.1 "Treaty"

In these Regulations, the word "Treaty" means the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.

##### 1.2 "Article"

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

##### 1.3 "Signature"

In these Regulations, whenever the word "signature" is used, it shall be understood that, where the law of the State on the territory of which an international depositary authority is located requires the use of a seal instead of a signature, the said word shall mean "seal" for the purposes of that authority.

### Rule 2

#### International Depositary Authorities

##### 2.1 *Legal Status*

Any international depositary authority may be a government agency, including any public institution attached to a public administration other than the central government, or a private entity.

##### 2.2 *Staff and Facilities*

The requirements referred to in Article 6(2)(ii) shall include in particular the following:

(i) the staff and facilities of any international depositary authority must enable the said authority to store the deposited microorganisms in a manner which ensures that they are kept viable and uncontaminated;

(ii) any international depositary authority must, for the storage of microorganisms, provide for sufficient safety measures to minimize the risk of losing microorganisms deposited with it.

##### 2.3 *Furnishing of Samples*

The requirements referred to in Article 6(2)(viii) shall include in particular the requirement that any international depositary authority must furnish

samples of deposited microorganisms in an expeditious and proper manner.

### Rule 3

#### Acquisition of the Status of International Depositary Authority

##### 3.1 *Communication*

(a) The communication referred to in Article 7(1) shall be addressed to the Director General, in the case of a Contracting State, through diplomatic channels or, in the case of an intergovernmental industrial property organization, by its chief executive officer.

(b) The communication shall:

(i) indicate the name and address of the depositary institution to which the communication relates;

(ii) contain detailed information as to the said institution's capacity to comply with the requirements specified in Article 6(2), including information on its legal status, scientific standing, staff and facilities;

(iii) where the said depositary institution intends to accept for deposit only certain kinds of microorganisms, specify such kinds;

(iv) indicate the amount of any fees that the said institution will, upon acquiring the status of international depositary authority, charge for storage, viability statements and furnishing of samples of microorganisms;

(v) indicate the official language or languages of the said institution;

(vi) where applicable, indicate the date referred to in Article 7(1)(b).

##### 3.2 *Processing of the Communication*

If the communication complies with Article 7(1) and Rule 3.1, it shall be promptly notified by the Director General to all Contracting States and intergovernmental industrial property organizations and shall be promptly published by the International Bureau.

##### 3.3 *Extension of the List of Kinds of Microorganisms Accepted*

The Contracting State or intergovernmental industrial property organization having made the communication referred to in Article 7(1) may, at any time thereafter, notify the Director General that its assurances are extended to specified kinds of micro-

organisms to which, so far, the assurances have not extended. In such a case, and as far as the additional kinds of microorganisms are concerned, Article 7 and Rules 3.1 and 3.2 shall apply, *mutatis mutandis*.

#### Rule 4

##### Termination or Limitation of the Status of International Depository Authority

###### 4.1 Request; Processing of Request

(a) The request referred to in Article 8(1)(a) shall be addressed to the Director General as provided in Rule 3.1(a).

(b) The request shall:

(i) indicate the name and address of the international depository authority concerned;

(ii) where it relates only to certain kinds of microorganisms, specify such kinds;

(iii) indicate in detail the facts on which it is based.

(c) If the request complies with paragraphs (a) and (b), it shall be promptly notified by the Director General to all Contracting States and intergovernmental industrial property organizations.

(d) Subject to paragraph (e), the Assembly shall consider the request not earlier than six and not later than eight months from the notification of the request.

(e) Where, in the opinion of the Director General, respect of the time limit provided for in paragraph (d) could endanger the interests of actual or potential depositors, he may convene the Assembly for a date earlier than the date of the expiration of the six-month period provided for in paragraph (d).

(f) If the Assembly decides to terminate, or to limit to certain kinds of microorganisms, the status of international depository authority, the said decision shall become effective three months after the date on which it was made.

###### 4.2 Communication; Effective Date; Processing of Communication

(a) The communication referred to in Article 8(2)(a) shall be addressed to the Director General as provided in Rule 3.1(a).

(b) The communication shall:

(i) indicate the name and address of the international depository authority concerned;

(ii) where it relates only to certain kinds of microorganisms, specify such kinds;

(iii) where the Contracting State or intergovernmental industrial property organization making the communication desires that the effects provided for in Article 8(2)(b) take place on a date later than at the expiration of three months from the date of the communication, indicate that later date.

(c) Where paragraph (b)(iii) applies, the effects provided for in Article 8(2)(b) shall take place on the date indicated under that paragraph in the communication; otherwise, they shall take place at the expiration of three months from the date of the communication.

(d) The Director General shall promptly notify all Contracting States and intergovernmental industrial property organizations of any communication received under Article 8(2) and of its effective date under paragraph (c). A corresponding notice shall be promptly published by the International Bureau.

###### 4.3 Consequences for Deposits

In the case of a termination or limitation of the status of international depository authority under Articles 8(1), 8(2), 9(4) or 17(4), Rule 5.1 shall apply, *mutatis mutandis*.

#### Rule 5

##### Defaults by the International Depository Authority

###### 5.1 Discontinuance of Performance of Functions in Respect of Deposited Microorganisms

(a) If any international depository authority temporarily or definitively discontinues the performance of any of the tasks it should perform under the Treaty and these Regulations in relation to any microorganisms deposited with it, the Contracting State or intergovernmental industrial property organization which, in respect of that authority, has furnished the assurances under Article 6(1) shall:

(i) ensure, to the fullest extent possible, that samples of all such microorganisms are transferred promptly and without deterioration or contamination from the said authority ("the defaulting authority") to another international depository authority ("the substitute authority");

(ii) ensure, to the fullest extent possible, that all mail or other communications addressed to the

defaulting authority, and all files and other relevant information in the possession of that authority, in respect of the said microorganisms are promptly transferred to the substitute authority;

(iii) ensure, to the fullest extent possible, that the defaulting authority promptly notifies all depositors affected of the discontinuance of the performance of its functions and the transfers effected;

(iv) promptly notify the Director General of the fact and the extent of the discontinuance in question and of the measures which have been taken by the said Contracting State or intergovernmental industrial property organization under (i) to (iii).

(b) The Director General shall promptly notify the Contracting States and the intergovernmental industrial property organizations as well as the industrial property offices of the notification received under paragraph (a) (iv); the notification of the Director General and the notification received by him shall be promptly published by the International Bureau.

(c) Under the applicable patent procedure it may be required that the depositor shall, promptly after receiving the receipt referred to in Rule 7.5, notify to any industrial property office with which a patent application was filed with reference to the original deposit the new accession number given to the deposit by the substitute authority.

(d) The substitute authority shall retain in an appropriate form the accession number given by the defaulting authority, together with the new accession number.

(e) In addition to any transfer effected under paragraph (a) (i), the defaulting authority shall, upon request by the depositor, transfer a sample of any microorganism deposited with it to any international depositary authority indicated by the depositor other than the substitute authority, provided that the depositor pays any expenses to the defaulting authority resulting from the transfer of that sample. The depositor shall pay the fee for the storage of the said sample to the international depositary authority indicated by him.

(f) On the request of any depositor affected, the defaulting authority shall retain, as far as possible, samples of the microorganisms deposited with it.

## 5.2 *Refusal To Accept Certain Kinds of Microorganisms*

(a) If any international depositary authority refuses to accept for deposit any of the kinds of micro-

organisms which it should accept under the assurances furnished, the Contracting State or intergovernmental industrial property organization which, in respect of that authority, has made the declaration referred to in Article 7(1)(a) shall promptly notify the Director General of the relevant facts and the measures which have been taken.

(b) The Director General shall promptly notify the other Contracting States and intergovernmental industrial property organizations of the notification received under paragraph (a); the notification of the Director General and the notification received by him shall be promptly published by the International Bureau.

## Rule 6

### Making the Original Deposit or New Deposit

#### 6.1 *Original Deposit*

(a) The microorganism transmitted by the depositor to the international depositary authority shall, except where Rule 6.2 applies, be accompanied by a written statement bearing the signature of the depositor and containing:

(i) an indication that the deposit is made under the Treaty;

(ii) the name and address of the depositor;

(iii) details of the conditions necessary for the cultivation of the microorganism, for its storage and for testing its viability and also, where a mixture of microorganisms is deposited, descriptions of the components of the mixture and at least one of the methods permitting the checking of their presence;

(iv) an identification reference (number, symbols, etc.) given by the depositor to the microorganism;

(v) an indication of the properties of the microorganism which the international depositary authority cannot be expected to foresee but which are dangerous to health or the environment, particularly in the case of new microorganisms.

(b) It is strongly recommended that the written statement referred to in paragraph (a) should contain the scientific description and/or proposed taxonomic designation of the deposited microorganism.

#### 6.2 *New Deposit*

(a) Subject to paragraph (b), in the case of a new deposit made under Article 4, the microorganism

transmitted by the depositor to the international depositary authority shall be accompanied by a copy of the receipt of the original deposit, a copy of the most recent statement concerning the viability of the microorganism originally deposited indicating that the microorganism is viable and a written statement bearing the signature of the depositor and containing:

(i) the indications referred to in Rule 6.1(a)(i) to (v);

(ii) a declaration stating the reason relevant under Article 4(1)(a) for making the new deposit, the statement required under Article 4(1)(c), and, where applicable, an indication of the date relevant under Article 4(1)(e);

(iii) where a scientific description and/or proposed taxonomic designation was/were indicated in connection with the original deposit, the most recent scientific description and/or proposed taxonomic designation as existing on the date relevant under Article 4(1)(e).

(b) Where the new deposit is made with the international depositary authority with which the original deposit was made, paragraph (a)(i) shall not apply.

### 6.3 Requirements of the International Depositary Authority

(a) Any international depositary authority may require that the microorganism be deposited in the form and quantity necessary for the purposes of the Treaty and these Regulations and be accompanied by a form established by such authority and duly completed by the depositor for the purposes of the administrative procedures of such authority.

(b) Any international depositary authority shall communicate any such requirements and any amendments thereof to the International Bureau.

## Rule 7

### Receipt

#### 7.1 Issuance of Receipt

The international depositary authority shall issue to the depositor, in respect of each deposit of microorganism effected with it or transferred to it, a receipt in attestation of the fact that it has received and accepted the microorganism.

#### 7.2 Form; Languages; Signature

(a) Any receipt referred to in Rule 7.1 shall be established on a form called an "international form," a model of which shall be established by the Director General in those languages which the Assembly shall designate.

(b) Any words or letters filled in in the receipt in characters other than those of the Latin alphabet shall also appear therein transliterated in characters of the Latin alphabet.

(c) The receipt shall bear the signature of the person or persons having the power to represent the international depositary authority or that of any other official of that authority duly authorized by the said person or persons.

#### 7.3 Contents in the Case of the Original Deposit

Any receipt referred to in Rule 7.1 and issued in the case of an original deposit shall indicate that it is issued by the depositary institution in its capacity of international depositary authority under the Treaty and shall contain at least the following indications:

(i) the name and address of the international depositary authority;

(ii) the name and address of the depositor;

(iii) the date of receipt of the microorganism by the international depositary authority;

(iv) the identification reference (number, symbols, etc.) given by the depositor to the microorganism;

(v) the accession number given by the international depositary authority to the deposit;

(vi) where the written statement referred to in Rule 6.1(a) contains the scientific description and/or proposed taxonomic designation of the microorganism, a reference to that fact.

#### 7.4 Contents in the Case of the New Deposit

Any receipt referred to in Rule 7.1 and issued in the case of a new deposit effected under Article 4 shall be accompanied by a copy of the receipt of the original deposit and a copy of the most recent statement concerning the viability of the microorganism originally deposited indicating that the microorganism is viable, and shall at least contain:

(i) the indications referred to in Rule 7.3(i) to (v);

(ii) an indication of the relevant reason and, where applicable, the relevant date as stated by the depositor in accordance with Rule 6.2(a)(ii);



(iii) where Rule 6.2(a)(iii) applies, a reference to the fact that a scientific description and/or a proposed taxonomic designation has/have been indicated by the depositor;

(iv) the accession number given to the original deposit.

#### 7.5 *Receipt in the Case of Transfer*

The international depositary authority to which samples of microorganisms are transferred under Rule 5.1(a)(1) shall issue to the depositor, in respect of each deposit in relation with which a sample is transferred, a receipt indicating that it is issued by the depositary institution in its capacity of international depositary authority under the Treaty and containing at least:

(i) the indications referred to in Rule 7.3(i) to (v);

(ii) the name and address of the international depositary authority from which the transfer was effected;

(iii) the accession number given by the international depositary authority from which the transfer was effected.

#### 7.6 *Communication of the Scientific Description and/or Proposed Taxonomic Designation*

On request of any party entitled to receive a sample of the deposited microorganism under Rules 11.1, 11.2 or 11.3, the international depositary authority shall communicate to such party the scientific description and/or proposed taxonomic designation referred to in Rules 7.3(vi) or 7.4(iii).

### Rule 8

#### **Later Indication or Amendment of the Scientific Description and/or Proposed Taxonomic Designation**

##### 8.1 *Communication*

(a) Where, in connection with the deposit of a microorganism, the scientific description and/or taxonomic designation of the microorganism was/were not indicated, the depositor may later indicate or, where already indicated, may amend such description and/or designation.

(b) Any such later indication or amendment shall be made in a written communication, bearing the signature of the depositor, addressed to the international depositary authority and containing:

(i) the name and address of the depositor;

(ii) the accession number given by the said authority;

(iii) the scientific description and/or proposed taxonomic designation of the microorganism;

(iv) in the case of an amendment, the last preceding scientific description and/or proposed taxonomic designation.

##### 8.2 *Attestation*

The international depositary authority shall, on the request of the depositor having made the communication referred to in Rule 8.1, deliver to him an attestation showing the data referred to in Rule 8.1(b)(i) to (iv) and the date of receipt of such communication.

### Rule 9

#### **Storage of Microorganisms**

##### 9.1 *Duration of the Storage*

Any microorganism deposited with an international depositary authority shall be stored by such authority, with all the care necessary to keep it viable and uncontaminated, for a period of at least five years after the most recent request for the furnishing of a sample of the deposited microorganism was received by the said authority and, in any case, for a period of at least 30 years after the date of the deposit.

##### 9.2 *Secrecy*

No international depositary authority shall give information to anyone whether a microorganism has been deposited with it under the Treaty. Furthermore, it shall not give any information to anyone concerning any microorganism deposited with it under the Treaty except to an authority, natural person or legal entity which is entitled to obtain a sample of the said microorganism under Rule 11 and subject to the same conditions as provided in that Rule.

### Rule 10

#### **Viability Test and Statement**

##### 10.1 *Obligation to Test*

The international depositary authority shall test the viability of each microorganism deposited with it:

(i) promptly after any deposit referred to in Rule 6 or any transfer referred to in Rule 5.1;

(ii) at reasonable intervals, depending on the kind of microorganism and its possible storage conditions, or at any time, if necessary for technical reasons;

(iii) at any time, on the request of the depositor.

#### 10.2 *Viability Statement*

(a) The international depositary authority shall issue a statement concerning the viability of the deposited microorganism:

(i) to the depositor, promptly after any deposit referred to in Rule 6 or any transfer referred to in Rule 5.1;

(ii) to the depositor, on his request, at any time after the deposit or transfer;

(iii) to any industrial property office, other authority, natural person or legal entity, other than the depositor, to whom or to which samples of the deposited microorganism were furnished in conformity with Rule 11, on his or its request, together with or at any time after such furnishing of samples.

(b) The viability statement shall indicate whether the microorganism is or is no longer viable and shall contain:

(i) the name and address of the international depositary authority issuing it;

(ii) the name and address of the depositor;

(iii) the date of the deposit of the microorganism and of the transfer, if any;

(iv) the accession number given by the said authority;

(v) the date of the test to which it refers;

(vi) information on the conditions under which the viability test has been performed, provided that the said information has been requested by the party to which the viability statement is issued and that the results of the test were negative.

(c) In the cases of paragraph (a) (ii) and (iii), the viability statement shall refer to the most recent viability test.

(d) As to form, languages and signature, Rule 7.2 shall apply, *mutatis mutandis*, to the viability statement.

(e) In the case of paragraph (a) (i) or where the request is made by an industrial property office, the issuance of the viability statement shall be free of charge. Any fee payable under Rule 12.1(a) (iii) in

respect of any other viability statement shall be chargeable to the party requesting the statement and shall be paid before or at the time of making the request.

### Rule 11

#### Furnishing of Samples

##### 11.1 *Furnishing of Samples to Interested Industrial Property Offices*

Any international depositary authority shall furnish a sample of any deposited microorganism to the industrial property office of any Contracting State or of any intergovernmental industrial property organization, on the request of such office, provided that the request shall be accompanied by a declaration to the effect that:

(i) an application referring to the deposit of that microorganism has been filed with that office for the grant of a patent and that the subject matter of that application involves the said microorganism or the use thereof;

(ii) such application is pending before that office or has led to the grant of a patent;

(iii) the sample is needed for the purposes of a patent procedure having effect in the said Contracting State or in the said organization or its member States;

(iv) the said sample and any information accompanying or resulting from it will be used only for the purposes of the said patent procedure.

##### 11.2 *Furnishing of Samples to or with the Authorization of the Depositor*

Any international depositary authority shall furnish a sample of any deposited microorganism:

(i) to the depositor, on his request;

(ii) to any authority, natural person or legal entity (hereinafter referred to as "the authorized party"), on the request of such party, provided that the request is accompanied by a declaration of the depositor authorizing the requested furnishing of a sample.

##### 11.3 *Furnishing of Samples to Parties Legally Entitled*

(a) Any international depositary authority shall furnish a sample of any deposited microorganism to any authority, natural person or legal entity (hereinafter referred to as "the certified party"), on the

request of such party, provided that the request is made on a form whose contents are fixed by the Assembly and that on the said form the industrial property office certifies:

(i) that an application referring to the deposit of that microorganism has been filed with that office for the grant of a patent and that the subject matter of that application involves the said microorganism or the use thereof;

(ii) that, except where the second phrase of (iii) applies, publication for the purposes of patent procedure has been effected by that office;

(iii) either that the certified party has a right to a sample of the microorganism under the law governing patent procedure before that office and, where the said law makes the said right dependent on the fulfillment of certain conditions, that that office is satisfied that such conditions have actually been fulfilled or that the certified party has affixed his signature on a form before that office and that, as a consequence of the signature of the said form, the conditions for furnishing a sample to the certified party are deemed to be fulfilled in accordance with the law governing patent procedure before that office; where the certified party has the said right under the said law prior to publication for the purposes of patent procedure by the said office and such publication has not yet been effected, the certification shall expressly state so and shall indicate, by citing it in the customary manner, the applicable provision of the said law, including any court decision.

(b) In respect of patents granted and published by any industrial property office, such office may from time to time communicate to any international depositary authority lists of the accession numbers given by that authority to the deposits of the microorganisms referred to in the said patents. The international depositary authority shall, on the request of any authority, natural person or legal entity (hereinafter referred to as "the requesting party"), furnish to it a sample of any microorganism where the accession number has been so communicated. In respect of deposited microorganisms whose accession numbers have been so communicated, the said office shall not be required to provide the certification referred to in Rule 11.3(a).

#### 11.4 Common Rules

(a) Any request, declaration, certification or communication referred to in Rules 11.1, 11.2 and 11.3 shall be

(i) in English, French, Russian or Spanish where it is addressed to an international depositary authority whose official language is or whose official languages include English, French, Russian or Spanish, respectively, provided that, where it must be in Russian or Spanish, it may be instead filed in English or French and, if it is so filed, the International Bureau shall, on the request of the interested party referred to in the said Rules or the international depositary authority, establish, promptly and free of charge, a certified translation into Russian or Spanish;

(ii) in all other cases, it shall be in English or French, provided that it may be, instead, in the official language or one of the official languages of the international depositary authority.

(b) Notwithstanding paragraph (a), where the request referred to in Rule 11.1 is made by an industrial property office whose official language is Russian or Spanish, the said request may be in Russian or Spanish, respectively, and the International Bureau shall establish, promptly and free of charge, a certified translation into English or French, on the request of that office.

(c) Any request, declaration, certification or communication referred to in Rules 11.1, 11.2 and 11.3 shall be in writing, shall bear a signature and shall be dated.

(d) Any request, declaration or certification referred to in Rules 11.1, 11.2 and 11.3(a) shall contain the following indications:

(i) the name and address of the industrial property office making the request, of the authorized party or of the certified party, as the case may be;

(ii) the accession number given to the deposit;

(iii) in the case of Rule 11.1, the date and number of the application or patent referring to the deposit;

(iv) in the case of Rule 11.3(a), the indications referred to in (iii) and the name and address of the industrial property office which has made the certification referred to in the said Rule.

(e) Any request referred to in Rule 11.3(b) shall contain the following indications:

(i) the name and address of the requesting party;

(ii) the accession number given to the deposit.

(f) The container in which the sample furnished is placed shall be marked by the international depositary authority with the accession number given to the deposit and shall be accompanied by a copy of the receipt referred to in Rule 7.

(g) The international depositary authority having furnished a sample to any interested party other than the depositor shall promptly notify the depositor in writing of that fact, as well as of the date on which the said sample was furnished and of the name and address of the industrial property office, of the authorized party, of the certified party or of the requesting party, to whom or to which the sample was furnished. The said notification shall be accompanied by a copy of the pertinent request, of any declarations submitted under Rules 11.1 and 11.2(ii) in connection with the said request, and of any forms or requests bearing the signature of the requesting party in accordance with Rule 11.3.

(h) The furnishing of samples referred to in Rule 11.1 shall be free of charge. Where the furnishing of samples is made under Rule 11.2 or 11.3, any fee payable under Rule 12.1(a)(iv) shall be chargeable to the depositor, to the authorized party, to the certified party or to the requesting party, as the case may be, and shall be paid before or at the time of making the said request.

## Rule 12

### Fees

#### 12.1 *Kinds and Amounts*

(a) Any international depositary authority may, with respect to the procedure under the Treaty and these Regulations, charge a fee:

- (i) for storage;
- (ii) for the attestation referred to in Rule 8.2;
- (iii) subject to Rule 10.2(e), first sentence, for the issuance of viability statements;
- (iv) subject to Rule 11.4(h), first sentence, for the furnishing of samples.

(b) The fee for storage shall be for the whole duration of the storage of the microorganism as provided in Rule 9.1.

(c) The amount of any fee shall not vary on account of the nationality or residence of the depositor or on account of the nationality or residence of the authority, natural person or legal entity requesting the issuance of a viability statement or furnishing of samples.

#### 12.2 *Change in the Amounts*

(a) Any change in the amount of the fees charged by any international depositary authority shall be

notified to the Director General by the Contracting State or intergovernmental industrial property organization which made the declaration referred to in Article 7(1) in respect of that authority. The notification may, subject to paragraph (c), contain an indication of the date from which the new fees will apply.

(b) The Director General shall promptly notify all Contracting States and intergovernmental industrial property organizations of any notification received under paragraph (a) and of its effective date under paragraph (c); the notification of the Director General and the notification received by him shall be promptly published by the International Bureau.

(c) Any new fees shall apply as of the date indicated under paragraph (a), provided that, where the change consists of an increase in the amounts of the fees or where no date is so indicated, the new fees shall apply as from the thirtieth day following the publication of the change by the International Bureau.

## Rule 13

### Publication by the International Bureau

#### 13.1 *Form of Publication*

Any publication by the International Bureau referred to in the Treaty or these Regulations shall be made in the monthly periodical of the International Bureau referred to in the Paris Convention for the Protection of Industrial Property.<sup>1</sup>

#### 13.2 *Contents*

(a) At least in the first issue of each year of the said periodical, an up-to-date list of the international depositary authorities shall be published, indicating in respect of each such authority the kinds of microorganisms that may be deposited with it and the amount of the fees charged by it.

(b) Full information on any of the following facts shall be published once, in the first issue of the said periodical published after the occurrence of the fact:

(i) any acquisition, termination or limitation of the status of international depositary authority, and the measures taken in connection with that termination or limitation;

(ii) any extension referred to in Rule 3.3;

(iii) any discontinuance of the functions of an international depositary authority, any refusal to

<sup>1</sup> United Nations, *Treaty Series*, vol. 828, p. 305.

accept certain kinds of microorganisms, and the measures taken in connection with such discontinuance or refusal;

(iv) any change in the fees charged by an international depository authority;

(v) any requirements communicated in accordance with Rule 6.3(b) and any amendments thereof.

#### **Rule 14**

##### **Expenses of Delegations**

###### *14.1 Coverage of Expenses*

The expenses of each delegation participating in any session of the Assembly and in any committee, working group or other meeting dealing with matters of concern to the Union shall be borne by the State or organization which has appointed it.

#### **Rule 15**

##### **Absence of Quorum in the Assembly**

###### *15.1 Voting by Correspondence*

(a) In the case provided for in Article 10(5)(b), the Director General shall communicate any decision of the Assembly (other than decisions relating to the Assembly's own procedure) to the Contracting States which were not represented when the decision was made and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication.

(b) If, at the expiration of the said period, the number of Contracting States having thus expressed their vote or abstention attains the number of Contracting States which was lacking for attaining the quorum when the decision was made, that decision shall take effect provided that at the same time the required majority still obtains.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Treaty.

DONE at Budapest, this twenty-eighth day of April, one thousand nine hundred and seventy-seven.\*

EN FOI DE QUOI, les soussignés, dûment autorisés à cette fin, ont signé le présent Traité.

FAIT à Budapest, le vingt-huit avril mil neuf cent soixante-dix-sept.\*

FOR THE PEOPLE'S DEMOCRATIC  
REPUBLIC OF ALGERIA  
POUR LA RÉPUBLIQUE ALGÉRIENNE  
DÉMOCRATIQUE ET POPULAIRE

FOR THE ARGENTINE REPUBLIC  
POUR LA RÉPUBLIQUE ARGENTINE

FOR THE COMMONWEALTH OF AUSTRALIA  
POUR LE COMMONWEALTH D'AUSTRALIE

\* *Note*

All signatures were affixed on April 28, 1977, unless otherwise indicated.

\* *Note*

Toutes les signatures ont été apposées le 28 avril 1977, sauf si une autre date est indiquée.

FOR THE REPUBLIC OF AUSTRIA  
POUR LA RÉPUBLIQUE D'AUTRICHE

F. Frölichsthal

[22 December 1977 — 22 décembre 1977]

FOR THE COMMONWEALTH OF THE  
BAHAMAS  
POUR LE COMMONWEALTH DES BAHAMAS

FOR THE KINGDOM OF BELGIUM  
POUR LE ROYAUME DE BELGIQUE

FOR THE PEOPLE'S REPUBLIC OF BENIN  
POUR LA RÉPUBLIQUE POPULAIRE DU  
BENIN

FOR THE FEDERATIVE REPUBLIC OF  
BRAZIL  
POUR LA RÉPUBLIQUE FÉDÉRATIVE DU  
BRÉSIL

FOR THE PEOPLE'S REPUBLIC OF  
BULGARIA  
POUR LA RÉPUBLIQUE POPULAIRE DE  
BULGARIE

Ivan Ivanov

FOR THE UNITED REPUBLIC OF  
CAMEROON  
POUR LA RÉPUBLIQUE-UNIE DU  
CAMEROUN

FOR CANADA  
POUR LE CANADA

FOR THE CENTRAL AFRICAN EMPIRE  
POUR L'EMPIRE CENTRAFRICAÏN

FOR THE REPUBLIC OF CHAD  
POUR LA RÉPUBLIQUE DU TCHAD

FOR THE PEOPLE'S REPUBLIC OF  
THE CONGO  
POUR LA RÉPUBLIQUE POPULAIRE DU  
CONGO



FOR THE REPUBLIC OF CUBA  
POUR LA RÉPUBLIQUE DE CUBA

FOR THE REPUBLIC OF CYPRUS  
POUR LA RÉPUBLIQUE DE CHYPRE

FOR THE CZECHOSLOVAK SOCIALIST  
REPUBLIC  
POUR LA RÉPUBLIQUE SOCIALISTE  
TCHÉCOSLOVAQUE

FOR THE KINGDOM OF DENMARK  
POUR LE ROYAUME DU DANEMARK

K. Skjødt

FOR THE DOMINICAN REPUBLIC  
POUR LA RÉPUBLIQUE DOMINICAINE

FOR THE ARAB REPUBLIC OF EGYPT  
POUR LA RÉPUBLIQUE ARABE D'ÉGYPTE

FOR THE REPUBLIC OF FINLAND  
POUR LA RÉPUBLIQUE DE FINLANDE

Erkki Tuuli

FOR THE FRENCH REPUBLIC  
POUR LA RÉPUBLIQUE FRANÇAISE

G. Vianès

FOR THE GABONESE REPUBLIC  
POUR LA RÉPUBLIQUE GABONAISE

FOR THE GERMAN DEMOCRATIC  
REPUBLIC  
POUR LA RÉPUBLIQUE DÉMOCRATIQUE  
ALLEMANDE

FOR GERMANY, FEDERAL REPUBLIC OF  
POUR L'ALLEMAGNE, RÉPUBLIQUE  
FÉDÉRALE D'

Hermann Kersting

Dr. Manfred Deiters

FOR THE REPUBLIC OF GHANA  
POUR LA RÉPUBLIQUE DU GHANA

FOR THE HELLENIC REPUBLIC  
POUR LA RÉPUBLIQUE HELLÉNIQUE

FOR THE REPUBLIC OF HAITI  
POUR LA RÉPUBLIQUE D'HAÏTI

FOR THE HOLY SEE  
POUR LE SAINT-SIÈGE

FOR THE HUNGARIAN PEOPLE'S REPUBLIC  
POUR LA RÉPUBLIQUE POPULAIRE  
HONGROISE

E. Tasnádi

FOR THE REPUBLIC OF ICELAND  
POUR LA RÉPUBLIQUE D'ISLANDE

FOR THE REPUBLIC OF INDONESIA  
POUR LA RÉPUBLIQUE D'INDONÉSIE

FOR THE EMPIRE OF IRAN  
POUR L'EMPIRE D'IRAN

FOR THE REPUBLIC OF IRAQ  
POUR LA RÉPUBLIQUE D'IRAK

FOR IRELAND  
POUR L'IRLANDE

FOR THE STATE OF ISRAEL  
POUR L'ÉTAT D'ISRAËL

FOR THE ITALIAN REPUBLIC  
POUR LA RÉPUBLIQUE ITALIENNE

Italo Papini

FOR THE REPUBLIC OF THE IVORY COAST  
POUR LA RÉPUBLIQUE DE CÔTE D'IVOIRE

FOR JAPAN  
POUR LE JAPON

FOR THE HASHEMITE KINGDOM OF  
JORDAN  
POUR LE ROYAUME HACHÉMITE DE  
JORDANIE

FOR THE REPUBLIC OF KENYA  
POUR LA RÉPUBLIQUE DU KENYA

FOR THE LEBANESE REPUBLIC  
POUR LA RÉPUBLIQUE LIBANAISE

FOR THE SOCIALIST PEOPLE'S LIBYAN  
ARAB ALJAMAHIRIYA  
POUR L'ALJAMAHIRIYA ARABE LIBYENNE  
POPULAIRE SOCIALISTE

FOR THE PRINCIPALITY OF  
LIECHTENSTEIN  
POUR LA PRINCIPAUTÉ DE  
LIECHTENSTEIN

FOR THE GRAND DUCHY OF  
LUXEMBOURG  
POUR LE GRAND-DUCHÉ DE  
LUXEMBOURG

J. A. Beelaerts van Blokland

[8 December 1977 — 8 décembre 1977]

FOR THE DEMOCRATIC REPUBLIC OF  
MADAGASCAR  
POUR LA RÉPUBLIQUE DÉMOCRATIQUE  
DE MADAGASCAR

FOR THE REPUBLIC OF MALAŪI  
POUR LA RÉPUBLIQUE DU MALAŪI

FOR THE REPUBLIC OF MALTA  
POUR LA RÉPUBLIQUE DE MALTE

FOR THE ISLAMIC REPUBLIC OF  
MAURITANIA  
POUR LA RÉPUBLIQUE ISLAMIQUE DE  
MAURITANIE

FOR MAURITIUS  
POUR MAURICE

FOR THE UNITED MEXICAN STATES  
POUR LES ETATS-UNIS DU MEXIQUE

FOR THE PRINCIPALITY OF MONACO  
POUR LA PRINCIPAUTÉ DE MONACO

FOR THE KINGDOM OF MOROCCO  
POUR LE ROYAUME DU MAROC

FOR THE KINGDOM OF THE NETHERLANDS  
POUR LE ROYAUME DES PAYS-BAS

J. Wolfswinkel

FOR NEW ZEALAND  
POUR LA NOUVELLE-ZÉLANDE

FOR THE REPUBLIC OF THE NIGER  
POUR LA RÉPUBLIQUE DU NIGER

FOR THE FEDERAL REPUBLIC OF NIGERIA  
POUR LA RÉPUBLIQUE FÉDÉRALE DU  
NIGÉRIA

FOR THE KINGDOM OF NORWAY  
POUR LE ROYAUME DE NORVÈGE

Leif Nordstrand

FOR THE REPUBLIC OF THE PHILIPPINES  
POUR LA RÉPUBLIQUE DES PHILIPPINES

FOR THE POLISH PEOPLE'S REPUBLIC  
POUR LA RÉPUBLIQUE POPULAIRE DE  
POLOGNE

FOR THE PORTUGUESE REPUBLIC  
POUR LA RÉPUBLIQUE PORTUGAISE

FOR THE SOCIALIST REPUBLIC OF  
ROMANIA  
POUR LA RÉPUBLIQUE SOCIALISTE DE  
ROUMANIE

FOR THE REPUBLIC OF SAN MARINO  
POUR LA RÉPUBLIQUE DE SAINT-MARIN

FOR THE REPUBLIC OF SENEGAL  
POUR LA RÉPUBLIQUE DU SÉNÉGAL

M. Mbengue

[17 December 1977 — 17 décembre 1977]

FOR THE SOCIALIST REPUBLIC OF  
VIET NAM  
POUR LA RÉPUBLIQUE SOCIALISTE  
DU VIET-NAM



FOR THE REPUBLIC OF SOUTH AFRICA  
POUR LA RÉPUBLIQUE SUD-AFRICAINE

FOR THE UNION OF SOVIET SOCIALIST  
REPUBLICS  
POUR L'UNION DES RÉPUBLIQUES  
SOCIALISTES SOVIÉTIQUES

F. P. Bogdanov

[30 December 1977 — 30 décembre 1977]

FOR THE SPANISH STATE  
POUR L'ÉTAT ESPAGNOL

Salvador García Pruneda y Ledesma  
Antonio Villalpando Martínez

FOR THE REPUBLIC OF SRI LANKA  
POUR LA RÉPUBLIQUE DE SRI LANKA

FOR THE REPUBLIC OF SURINAM  
POUR LA RÉPUBLIQUE DU SURINAM

FOR THE KINGDOM OF SWEDEN  
POUR LE ROYAUME DE SUÈDE

Thomas Ganslandt

[14 November 1977 — 14 novembre 1977]

FOR THE SWISS CONFEDERATION  
POUR LA CONFÉDÉRATION SUISSE

J.-L. Comte

FOR THE SYRIAN ARAB REPUBLIC  
POUR LA RÉPUBLIQUE ARABE SYRIENNE

FOR THE TOGOLESE REPUBLIC  
POUR LA RÉPUBLIQUE TOGOLAISE

FOR THE REPUBLIC OF TRINIDAD AND  
TOBAGO  
POUR LA RÉPUBLIQUE DE TRINITÉ-ET-  
TOBAGO

FOR THE REPUBLIC OF TUNISIA  
POUR LA RÉPUBLIQUE TUNISIENNE

FOR THE REPUBLIC OF TURKEY  
POUR LA RÉPUBLIQUE TURQUE

FOR THE REPUBLIC OF UGANDA  
POUR LA RÉPUBLIQUE DE L'OUGANDA

FOR THE UNITED KINGDOM OF GREAT  
BRITAIN AND NORTHERN IRELAND  
POUR LE ROYAUME-UNI DE GRANDE-  
BRETAGNE ET D'IRLANDE DU NORD

Ivor Davis  
Anthony J. Needs

FOR THE UNITED REPUBLIC OF TANZANIA  
POUR LA RÉPUBLIQUE-UNIE DE  
TANZANIE

FOR THE UNITED STATES OF AMERICA  
POUR LES ÉTATS-UNIS D'AMÉRIQUE

Harvey J. Winter  
Stanley D. Schlosser

FOR THE REPUBLIC OF THE UPPER VOLTA  
POUR LA RÉPUBLIQUE DE HAUTE-VOLTA

FOR THE EASTERN REPUBLIC OF  
URUGUAY  
POUR LA RÉPUBLIQUE ORIENTALE DE  
L'URUGUAY

FOR THE SOCIALIST FEDERAL REPUBLIC  
OF YUGOSLAVIA  
POUR LA RÉPUBLIQUE FÉDÉRATIVE  
SOCIALISTE DE YOUGOSLAVIE

FOR THE REPUBLIC OF ZAIRE  
POUR LA RÉPUBLIQUE DU ZAÏRE

FOR THE REPUBLIC OF ZAMBIA  
POUR LA RÉPUBLIQUE DE ZAMBIE

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AMENDMENTS OF THE REGULATIONS TO THE BUDAPEST  
TREATY OF 28 APRIL 1977<sup>1</sup> ON THE INTERNATIONAL RECOG-  
NITION OF THE DEPOSIT MICROORGANISMS FOR THE PUR-  
POSE OF PATENT PROCEDURE

The amendments were adopted on 20 January 1981 by the Assembly of the Union for the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (Budapest Union), during its second (extraordinary) session held from 12 to 20 January 1981.

They came into force on 31 January 1981, in accordance with a decision of the Assembly of the Budapest Union of 20 January 1981.

The amendments read as follows:

Rule 5

Defaults by the International Depositary Authority

5.1 Discontinuance of Performance of Functions in Respect of Deposited Microorganisms

- (a) [No change]
- (b) [No change]
- (c) [No change]
- (d) [No change]

(e) In addition to any transfer effected under paragraph (a)(i), the defaulting authority shall, upon request by the depositor, transfer, as far as possible, a sample of any microorganism deposited with it together with copies of all mail or other communications and copies of all files and other relevant information referred to in paragraph (a)(ii) to any international depositary authority indicated by the depositor other than the substitute authority, provided that the depositor pays any expenses to the defaulting authority resulting from the said transfer. The depositor shall pay the fee for the storage of the said sample to the international depositary authority indicated by him.

- (f) [No change]

5.2 [No change]

Rule 6

Making the Original Deposit or New Deposit

6.1 Original Deposit

- (a) [No change in the introductory passage]

<sup>1</sup> See p. 362 of this volume.

(i) an indication that the deposit is made under the Treaty and an undertaking not to withdraw it for the period specified in Rule 9.1;

(ii) [No change]

(iii) [No change]

(iv) [No change]

(v) an indication of the properties of the microorganism which are or may be dangerous to health or the environment, or an indication that the depositor is not aware of such properties.

(b) [No change]

## 6.2 New Deposit

(a) Subject to paragraph (b), in the case of a new deposit made under Article 4, the microorganism transmitted by the depositor to the international depositary authority shall be accompanied by a copy of the receipt of the previous deposit, a copy of the most recent statement concerning the viability of the microorganism which was the subject of the previous deposit indicating that the microorganism is viable and a written statement bearing the signature of the depositor and containing:

(i) the indications referred to in Rule 6.1(a)(i) to (v);

(ii) a declaration stating the reason relevant under Article 4(1)(a) for making the new deposit, a statement alleging that the microorganism which is the subject of the new deposit is the same as that which was the subject of the previous deposit, and an indication of the date on which the depositor received the notification referred to in Article 4(1)(a) or, as the case may be, the date of the publication referred to in Article 4(1)(e);

(iii) where a scientific description and/or proposed taxonomic designation was/were indicated in connection with the previous deposit, the most recent scientific description and/or proposed taxonomic designation as communicated to the international depositary authority with which the previous deposit was made.

(b) Where the new deposit is made with the international depositary authority with which the previous deposit was made, paragraph (a)(i) shall not apply.

(c) For the purposes of paragraphs (a) and (b) and of Rule 7.4, "previous deposit" means,

(i) where the new deposit has been preceded by one or more other new deposits: the most recent of those other new deposits;

(ii) where the new deposit has not been preceded by one or more other new deposits: the original deposit.

## 6.3 Requirements of the International Depositary Authority

(a) Any international depositary authority may require:

(i) that the microorganism be deposited in the form and quantity necessary for the purposes of the Treaty and these Regulations;

(ii) that a form established by such authority and duly completed by the depositor for the purposes of the administrative procedures of such authority be furnished;

(iii) that the written statement referred to in Rule 6.1(a) or 6.2(a) be drafted in the language, or in any of the languages, specified by such authority, it being understood that such specification must at least include the official language or languages indicated under Rule 3.1(b)(v);

(iv) that the fee for storage referred to in Rule 12.1(a)(i) be paid; and

(v) that, to the extent permitted by the applicable law, the depositor enter into a contract with such authority defining the liabilities of the depositor and the said authority.

(b) [No change]

#### 6.4 Acceptance Procedure

(a) The international depositary authority shall refuse to accept the microorganism and shall immediately notify the depositor in writing of such refusal and of the reasons therefor:

(i) where the microorganism is not of a kind of microorganism to which the assurances furnished under Rule 3.1(b)(iii) or 3.3 extend;

(ii) where the properties of the microorganism are so exceptional that the international depositary authority is technically not in a position to perform the tasks in relation to it that it must perform under the Treaty and these Regulations;

(iii) where the deposit is received in a condition which clearly indicates that the microorganism is missing or which precludes for scientific reasons the acceptance of the microorganism.

(b) Subject to paragraph (a), the international depositary authority shall accept the microorganism when all the requirements of Rule 6.1(a) or 6.2(a) and Rule 6.3(a) are complied with. If any of those requirements are not complied with, the international depositary authority shall immediately notify the depositor in writing of that fact and invite him to comply with those requirements.

(c) When the microorganism has been accepted as an original or new deposit, the date of that original or new deposit, as the case may be, shall be the date on which the microorganism was received by the international depositary authority.

(d) The international depositary authority shall, on the request of the depositor and provided that all the requirements referred to in paragraph (b) are complied with, consider a microorganism, deposited before the acquisition by such authority of the status of international depositary authority, to have been received, for the purposes of the Treaty, on the date on which such status was acquired.

#### Rule 7

##### Receipt

7.1 [No change]

7.2 [No change]

#### 7.3 Contents in the Case of the Original Deposit

[No change in the introductory passage]

(i) [No change]

(ii) [No change]

(iii) the date of the original deposit as defined in Rule 6.4(c);

(iv) [No change]

(v) [No change]

(vi) [No change]

#### 7.4 Contents in the Case of the New Deposit

Any receipt referred to in Rule 7.1 and issued in the case of a new deposit effected under Article 4 shall be accompanied by a copy of the receipt of the previous deposit (within the meaning of Rule 6.2(c)) and a copy of the most recent statement concerning the viability of the microorganism which was the subject of the previous deposit (within the meaning of Rule 6.2(c)) indicating that the microorganism is viable, and shall at least contain:

- (i) the name and address of the international depositary authority;
- (ii) the name and address of the depositor;
- (iii) the date of the new deposit as defined in Rule 6.4(c);
- (iv) the identification reference (number, symbols, etc.) given by the depositor to the microorganism;
- (v) the accession number given by the international depositary authority to the new deposit;
- (vi) an indication of the relevant reason and the relevant date as stated by the depositor in accordance with Rule 6.2(a)(ii);
- (vii) where Rule 6.2(a)(iii) applies, a reference to the fact that a scientific description and/or a proposed taxonomic designation has/have been indicated by the depositor;
- (viii) the accession number given to the previous deposit (within the meaning of Rule 6.2(c)).

#### 7.5 Receipt in the Case of Transfer

The international depositary authority to which samples of microorganisms are transferred under Rule 5.1(a)(1) shall issue to the depositor, in respect of each deposit in relation with which a sample is transferred, a receipt indicating that it is issued by the depositary institution in its capacity of international depositary authority under the Treaty and containing at least:

- (i) the name and address of the international depositary authority;
- (ii) the name and address of the depositor;
- (iii) the date on which the transferred sample was received by the international depositary authority (date of the transfer);
- (iv) the identification reference (number, symbols, etc.) given by the depositor to the microorganism;
- (v) the accession number given by the international depositary authority;
- (vi) the name and address of the international depositary authority from which the transfer was effected;
- (vii) the accession number given by the international depositary authority from which the transfer was effected;
- (viii) where the written statement referred to in Rule 6.1(a) or 6.2(a) contained the scientific description and/or proposed taxonomic designation of the microorganism, or where such scientific description and/or proposed taxonomic designation was/were indicated or amended under Rule 8.1 at a later date, a reference to that fact.

#### 7.6 Communication of the Scientific Description and/or Proposed Taxonomic Designation

On request of any party entitled to receive a sample of the deposited microorganism under Rules 11.1, 11.2 or 11.3, the international depositary authority shall communicate to such party the most recent scientific description and/or proposed taxonomic designation referred to in Rules 6.1(b), 6.2(a)(iii) or 8.1(b)(iii).



Rule 10Viability Test and Statement

10.1 [No change]

10.2 Viability Statement

(a) [No change]

(b) [No change in the introductory passage]

(i) [No change]

(ii) [No change]

(iii) the date referred to in Rule 7.3(iii) or, where a new deposit or a transfer has been made, the most recent of the dates referred to in Rules 7.4(iii) and 7.5(iii);

(iv) [No change]

(v) [No change]

(vi) [No change]

(c) [No change]

(d) [No change]

(e) [No change]

Rule 11Furnishing of Samples

11.1 [No change]

11.2 [No change]

11.3 [No change]

11.4 Common Rules

(a) [No change]

(b) Notwithstanding paragraph (a), where the request referred to in Rule 11.1 is made by an industrial property office whose official language is Russian or Spanish, the said request may be in Russian or Spanish, respectively, and the International Bureau shall establish, promptly and free of charge, a certified translation into English or French, on the request of that office or the international depositary authority which received the said request.

(c) [No change]

(d) [No change]

(e) [No change]

(f) The container in which the sample furnished is placed shall be marked by the international depositary authority with the accession number given to the

deposit and shall be accompanied by a copy of the receipt referred to in Rule 7, an indication of any properties of the microorganism which are or may be dangerous to health or the environment and, upon request, an indication of the conditions which the international depositary authority employs for the cultivation and storage of the microorganism.

(g) [No change]

(h) [No change]

#### 11.5 Changes in Rules 11.1 and 11.3 when Applying to International Applications

Where an application was filed as an international application under the Patent Cooperation Treaty, the reference to the filing of the application with the industrial property office in Rules 11.1(i) and 11.3(a)(i) shall be considered a reference to the designation, in the international application, of the Contracting State for which the industrial property office is the "designated Office" within the meaning of that Treaty, and the certification of publication which is required by Rule 11.3(a)(ii) shall, at the option of the industrial property office, be either a certification of international publication under the said Treaty or a certification of publication by the industrial property office.

### Rule 12

#### Fees

#### 12.1 Kinds and Amounts

(a) [No change in the introductory passage]

(i) [No change]

(ii) [No change]

(iii) [No change]

(iv) subject to Rule 11.4(h), first sentence, for the furnishing of samples;

(v) for the communication of information under Rule 7.6.

12.2 [No change]

### Rule 12bis

#### Computation of Time Limits

#### 12bis.1 Periods Expressed in Years

When a period is expressed as one year or a certain number of years, computation shall start on the day following the day on which the relevant event occurred, and the period shall expire in the relevant subsequent year in the month having the same name and on the day having the same number as the month and the day on which the said event occurred, provided that if the relevant subsequent month has no day with the same number the period shall expire on the last day of that month.

#### 12bis.2 Periods Expressed in Months

When a period is expressed as one month or a certain number of months, computation shall start on the day following the day on which the relevant event

occurred, and the period shall expire in the relevant subsequent month on the day which has the same number as the day on which the said event occurred, provided that if the relevant subsequent month has no day with the same number the period shall expire on the last day of that month.

12bis.3 Periods Expressed in Days

When a period is expressed as a certain number of days, computation shall start on the day following the day on which the relevant event occurred, and the period shall expire on the day on which the last day of the count has been reached.

*Certified statement was registered by the Director-General of the World Intellectual Property Organization, acting on behalf of the Parties, on 28 March 1995.*

AMENDMENT TO THE BUDAPEST TREATY OF 28 APRIL 1977<sup>1</sup> ON  
THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF  
MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

The amendment was unanimously adopted by the Assembly of the Budapest Union on 26 September 1980. It came into force on 24 May 1984, i.e., one month after the receipt by the Director-General of the World Intellectual Property Organization of notifications of acceptance from four fifths of the Contracting States members of the Assembly at the time the Assembly adopted the amendment, in accordance with article 14 (3) (a):

<i>Participant</i>	<i>Date of deposit of the instrument of acceptance</i>	
Hungary .....	27 January	1982
Bulgaria.....	18 March	1982
Spain.....	25 March	1982
Switzerland .....	5 April	1982
United States of America.....	14 November	1983
France.....	24 April	1984

The amendment reads as follows:

In article 10 (7) (a), “third” is replaced by “second”.

*Certified statement was registered by the Director-General of the World Intellectual Property Organization, acting on behalf of the Parties, on 28 March 1995.*

<sup>1</sup> See p. 362 of this volume.