

SUBREGIONAL INTEGRATION AGREEMENT (CARTAGENA AGREEMENT)

Decision No. 344—Common Provisions on Industrial Property*
(of October 21, 1993)

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CHAPTER I PATENTS

Section I Patentability Requirements

1. The Member Countries shall grant patents for inventions in all areas of technology, whether goods or processes, that are new, involve an inventive step and are industrially applicable.

2. An invention is new when it is not included in the state of the art.

The state of the art comprises everything that has been made available to the public by written or oral description, by use or by any other means prior to the filing date of the patent application or, where appropriate, of the priority claimed.

Solely for the purpose of determining novelty, the contents of a patent application pending before the competent national office and having a filing date or priority date earlier than the priority date of the patent application under examination shall likewise be considered part of the state of the art, provided that the said contents are published.

3. For the purposes of determining patentability, no account shall be taken of any disclosure of the contents of the patent during the year prior to the filing date of the application in the country, or during the year before the priority date if priority has been claimed, provided that such disclosure is attributable to:

(a) the inventor or his successor in title;

(b) a competent national office which, in violation of the provisions applicable, publishes the contents of the patent application filed by the inventor or his successor in title;

(c) a third party who has obtained the information directly or indirectly from the inventor or his successor in title;

(d) manifest abuse to the detriment of the applicant or his successor in title;

(e) the fact that the applicant or his successor in title has displayed the invention at officially recognized exhibitions or fairs, or where for academic or research purposes it has been necessary to make it public in order to proceed with its development. In that case the person concerned shall submit, on filing the application, a statement attesting that the invention has actually been so displayed, and shall submit the appropriate certification.

4. An invention shall be regarded as involving an inventive step if, for a person in the trade with average skills in the technical field concerned, the said invention is neither obvious nor obviously derived from the state of the art.

5. An invention shall be regarded as industrially applicable when its subject matter may be produced or used in any type of industry, industry being understood as that involving any productive activity, including services.

6. The following shall not be considered inventions:

- (a) discoveries, scientific theories and mathematical methods;
- (b) subject matter that already exists in nature or is a reproduction thereof;
- (c) literary and artistic works or any other aesthetic creation, and also scientific works;
- (d) plans, rules and methods for the pursuit of intellectual activities, for the playing of games or for economic and business activities, and also computer programs or software;
- (e) methods of presenting information;
- (f) therapeutic or surgical methods for the treatment of human beings or animals, and methods of diagnosis.

7. The following shall not be patentable:

- (a) inventions contrary to public policy, morality or proper practice;
- (b) inventions that are clearly prejudicial to human or animal health the preservation of plants or the conservation of the environment;
- (c) animal species and breeds and essentially biological processes for the production or breeding thereof;
- (d) inventions relating to matter that makes up the human body and to the genetic identity thereof;
- (e) inventions relating to pharmaceutical products appearing in the List of Essential Drugs of the World Health Organization.

Section II Owners of Patents

8. The right to the patent shall belong to the inventor or to his successor in title.

The owners of patents may be natural persons or legal entities.

If two or more persons have made an invention jointly, the right shall be jointly held by both or all of them.

If two or more persons make the same invention independently of each other, the patent shall be granted to the person, or to the successor in title, who files the first application in respect of it or claims the earliest priority.

9. Where a patent application relates to an invention that has been unlawfully obtained from the inventor or from his successors in title, or where, by virtue of contractual or legal obligations, the owner of the patent has to be a person other than the applicant, any person having a legitimate interest may, up to three years following the grant of the patent, claim the status of true owner before the competent judicial authority.

10. Without prejudice to the provisions of the national legislation of each Member Country, in the case of inventions occurring in the course of employment relations, the State employer, whatever its form and nature, may transfer part of the economic benefit deriving from the innovations to the employee inventors with a view to promoting research activity, as provided in the laws of the country concerned.

Entities that receive State funding for their research shall reinvest part of the royalties received from the marketing of inventions, with a view to accumulating a continuous supply of research funds and stimulating researchers by giving them a share in the proceeds from innovations, in accordance with the legislation of each Member Country.

11. The inventor shall have the right to be mentioned as such in the patent, and may likewise object to being so mentioned.

Section III Patent Applications

12. The first application for a patent validly filed in a Member Country, or in another country that accords reciprocal treatment to applications from Member Countries of the Cartagena Agreement, shall confer on the applicant or on his successor in title a right of priority for a period of one year following the date of the said application, for the filing of a patent application for the same invention in any of the Member Countries of the Cartagena Agreement. The latter application shall not seek to claim priority in respect of subject matter not included in the former application.

13. Applications for patents shall be filed with the competent national office and shall contain:

(a) the identity of the applicant and of the inventor;

(b) the title or name of the invention;

(c) a clear and full description of the invention such as will enable a person skilled in the art to carry it out; for inventions that relate to live material, where the description does not afford sufficient detail in itself, a deposit of the said material shall be made at a depositary institution authorized by the competent national offices; the material deposited shall form an integral part of the description; the Member Countries shall enact provisions governing the making of deposits, including, among other aspects, the necessity and desirability of making such deposits, the duration thereof, the replacement of material and the supply of samples; the Member Countries may recognize research centers located on any of their territories as depositary institutions;

(d) one or more claims specifying the subject matter for which patent protection is sought;

(e) an abstract stating the object and purpose of the invention;

(f) proof of payment of the prescribed application fee.

Failure to comply with any of the requirements specified in this Article shall cause the competent national office to regard the application as not having been accepted for processing, and no filing date shall be assigned to it.

14. The following shall accompany the application at the time of filing:

(a) whatever powers of attorney are necessary;

(b) a copy of the first patent application where priority is claimed, with an express mention of the priority;

(c) any other requirements laid down by the domestic legislation of the Member Countries.

15. The patent may relate to one invention only or to a group of inventions so related as to constitute a single inventive concept.

16. Products or processes already patented and included in the state of the art within the meaning of Article 2 of this Decision may not be the subject of new patents on the sole ground of having been put to a use different from that originally contemplated by the initial patent.

17. The applicant may amend his application, but the amendment may not involve any broadening of the scope of the invention or of the disclosure made in the application as filed.

The applicant may, at any time prior to publication, request the conversion of his application to another type of industrial property right for the protection of the same subject matter.

18. The competent national office may, at any stage in the processing, as a result of its consideration of the application, propose to the applicant that he change the type of industrial property right applied for. The applicant may accept or reject the proposal on the understanding that, if he rejects it, the processing of the application for the type of right originally applied for will continue.

19. Where conversion is requested or a proposal to change the application is accepted, the requisite documents shall be filed and the procedure corresponding to the new type of right shall be observed.

20. The applicant may divide his application into two or more, but none of them may have the effect of broadening the scope of the invention or of the disclosure in the application as filed.

Every divisional application shall be accorded the same filing date as the original application in any Member Country.

Division of the application by the applicant shall take place prior to publication, and at any stage in the proceedings at the request of the competent national office.

Where division is requested or a division proposal is accepted, the requisite documents shall be filed and the procedure corresponding to the new type of right shall be observed.

Section IV Processing of the Application

21. When the application has been accepted for processing, the competent national office shall examine, within 15 working days following filing, whether it meets the conditions of form specified in this Decision.

22. If it emerges from the examination that the application does not fulfill the requirements referred to in the preceding Article, the competent national office shall make the appropriate comments, so that the applicant may give his reply to them or supplement his application within 30 working days following the date of notification. The said period may be prolonged once for the same number of days without loss of priority.

If, on expiration of the period specified, the applicant has not replied to the comments or has not supplemented his application and complied with the conditions of form, the application shall be considered abandoned.

23. Within 18 months following the filing date of the application or the date of any priority claimed, and on completion of the examination as to form referred to in Article 21, the competent national office shall publish the appropriate notice in conformity with the provisions laid down by each Member Country for the purpose.

24. The application file may not be consulted by third parties as long as the publication referred to has not taken place, except where written consent has been obtained from the applicant. Once publication has taken place, the file shall be public and may be consulted.

Any person who proves that the applicant for a patent has sought to assert rights deriving from the application against him may consult the file prior to publication and without the consent of the said applicant.

25. Within 30 working days following the publication date, any person having a legitimate interest may make one submission of reasoned observations contesting the patentability of the invention, in conformity with the procedure provided for in the domestic legislation of the Member Country. Reckless observations may be punished if national legislation so provides.

26. If, within the period specified in the foregoing Article, observations have been filed, the competent national office shall notify the applicant so that he may, within 30 working days following the said notification, which period may be extended once by the same amount of time, present his arguments if he sees fit, submit documents or rewrite the claims or description of the invention. To that end the provisions of Articles 17, 18, 19 or 20 of this Decision, as the case may be, shall be applicable.

27. On expiration of the periods specified in Articles 25 or 26, as the case may be, the competent national office shall proceed to examine whether or not the subject matter of the application is patentable.

If, in the course of the substantive examination, it is found that there is a liability of total or partial violation of the acquired rights of third parties, or that additional or complementary particulars or documents are required, the applicant shall be called upon in writing to present, within a maximum period of three months following the notification, those arguments and clarifications that he considers relevant, or to file the required information or documents. If the applicant fails to comply with the requirement within the period allowed, his application shall be considered abandoned.

28. The competent national office may solicit reports from experts or from scientific or technological bodies considered suitable, so as to have their opinion on the novelty, inventive step and industrial applicability of the invention. It may likewise, if it sees fit, solicit reports from any of the competent national offices of the other Member Countries or from non-member countries.

29. If the final examination is favorable, the patent shall be granted. If it is partly unfavorable, the patent shall be granted only in respect of those claims that have been accepted. If it is entirely unfavorable, the grant of a patent shall be refused.

30. The patent shall have a term of 20 years following the filing date of the corresponding application.

31. For the purposes of the organization and classification of patents, the Member Countries shall use the International Patent Classification.

32. The Member Countries shall undertake to keep each other informed and to inform the Council of patents granted or denied by their competent national offices. To that end, the Council shall supply the Member Countries with the requisite standards or formats for the exchange of the said information.

33. Any patented subject matter shall bear a notice giving the number of the patent, preceded visibly by the word “patent“ or the abbreviation “P.I.“ (*Patente de Invención*), either on the product itself or on its packaging.

Section V

Rights Conferred by the Patent

34. The scope of the protection conferred by the patent shall be determined by the wording of the claims. The description and drawings or plans, or the deposit of biological material where applicable, shall be used for the interpretation of the claims.

35. The patent shall confer on its owner the right to prevent third parties from exploiting the patented invention without his consent.

The owner may not exercise that right in any of the following cases:

(a) when the case concerns the importation of the patented product that has been marketed in any country with the consent of the owner, a licensee or any other authorized person;

(b) where the use takes place in a private circle and on a non-commercial scale;

(c) where the use is made at an experimental, academic or scientific level and for non-profit-making purposes.

36. The rights conferred by a patent may not be asserted against a third party who, in good faith and before the priority date or the filing date of the application on which the patent was granted, was already using the invention in a private circle, or had made real or effective preparations for such use.

In such a case, the said third party shall have the right to start or continue, within any Member Country, the manufacture of the product or use of the process, as the case may be, but that right may only be assigned or transferred together with the establishment or business in which the manufacture or use was taking place.

Section VI

Obligations on the Owner of the Patent

37. The owner of the patent shall be under the obligation to exploit the patented invention in any Member Country, either direct or through any person authorized by him.

38. For the purposes of this Decision, exploitation shall be understood to mean the industrial manufacture of the patented product or the full use of the patented process, including the distribution and marketing of the results thereof. Exploitation shall also be understood to mean the importation of the patented product, including distribution and marketing, of the patented product, where this is done on a scale sufficient to satisfy the demands of the market.

39. The owner of the patent shall register with the competent national office any contract for the assignment or licensing of the patent or any other form of use thereof by third parties in whatever capacity.

This obligation shall be met by the patentee or his successors in title, assignees, licensees or any other person who holds a right deriving from the patent.

Section VII

Licensing

40. The patentee may license another person to work the patent, but only by written contract.

License agreements shall be registered with the competent national office, failing which they shall not be binding on third parties.

41. The competent national office shall not register license agreements for the working of patents that do not conform to the provisions of the Common System for the Treatment of Foreign Capital and for Trademarks, Patents, Licenses and Royalties.

42. On expiration of a period of three years following the grant of the patent, or four years following the application for the patent, whichever is the longer, the competent national office may grant a compulsory license for the industrial manufacture of the product to which the patent relates, or for the full use of the patented process, at the request of any interested party who has failed to secure a contractual license on reasonable terms, but only if, at the time of the request, the patent has not been worked in the manner specified in Articles 37 and 38 of this Decision in the Member Country in which the license is sought, or if exploitation of the invention has been suspended for more than one year.

A compulsory license shall not be granted if the owner of the patent provides legitimate justification of his failure to act, which may be reasons of *force majeure*, in accordance with the domestic provisions of each Member Country.

The compulsory licensee shall pay appropriate compensation to the owner of the patent.

Any person who applies for a compulsory license shall prove that he has the technical and economic capability to carry out the industrial manufacture of the product to which the patent relates or the full use of the patented process.

43. The decision on the grant of compulsory licenses referred to in the foregoing Article shall be taken after the owner of the patent has been notified, so that, within 60 working days following the said decision, he may, if he sees fit, present his arguments.

The said grant decision shall specify the scope or extent of the license, and in particular shall specify the period for which it is granted, the subject matter of the license, the amount of the royalties and the conditions for the payment thereof.

The competent national office shall determine the amount of the consideration, after hearing the parties, in relation to the scale of the exploitation of the licensed invention and the cooperation that the patentee may have obtained to facilitate the said exploitation especially in terms of the provision of the necessary technical skills and whatever other conditions the office considers relevant thereto.

A complaint shall not prevent working or have any effect on periods that may be running. The making of a complaint shall not prevent the owner of the patent from collecting, among other things, the royalties specified by the office in respect of the part unaffected by the said complaint.

44. At the request of the owner of the patent or his licensee, the licensing conditions may be altered by the body that approved them, after the parties have been heard, where new circumstances dictate and in particular where the owner of the patent grants another license on terms more favorable than those previously granted.

45. The licensee shall be bound to exploit the licensed invention, which, unless the licensee justifies his inaction with legitimate reasons, shall occur within a period of two years following the date of grant of the license, failing which the license shall be revoked.

46. Following a declaration by the Government of the Member Country concerned regarding the existence of public interest, emergency or national security considerations, and only for as long as those considerations obtain, the said Government may make the patent subject to compulsory licensing at any time, in which case the competent national office may grant such licenses as are applied for. The owner of the patent so licensed shall be notified where reasonably possible.

The decision to grant a compulsory license shall specify the scope or extent of the license, and in particular the term for which it is granted, the subject matter of the license and the amount of royalties and the conditions for the payment thereof, without prejudice to the provisions of Article 49 of this Decision.

In the cases provided for in this Article, licenses may be granted for working according to the provisions of Articles 37 and 38 of this Decision.

The grant of a compulsory license for reasons of public interest shall not diminish the right of the owner of the patent to continue to work the said patent.

47. The competent national office may, either *ex officio* or at the request of a party, and after having obtained the consent of the national authority on free competition, grant compulsory licenses where practices are noted that are not in keeping with the proper exercise of industrial property rights and adversely affect free competition, especially when they constitute an abuse by the owner of the patent of his dominant position on the market.

In the decision on the appropriateness and the possible amount of economic compensation, due account shall be taken of the assessment made by the competent national authority.

48. The competent national office may grant a license at any time where it is applied for by the owner of a patent the exploitation of which requires the use of another, and where the said owner has been unable to secure a contractual license on reasonable terms. Such a license shall, without prejudice to the provisions of Article 49 of this Decision, be subject to the following:

(a) the invention claimed in the second patent must embody substantial technological progress in relation to that claimed in the first;

(b) the owner of the first patent shall have the right to a cross-license on reasonable terms for the exploitation of the invention claimed in the second;

(c) the license under the first patent may not be assigned without assignment also of the second.

49. Compulsory licenses shall be subject to the following:

(a) the compulsory license shall not be exclusive and may not be transferred or sublicensed except with the part of the enterprise within which it is exploited and with the consent of the owner of the patent; it shall be evidenced in writing and registered with the competent national office;

(b) the compulsory license shall be granted mainly to supply the domestic market of the Member Country that grants it; the Member Country shall be under no obligation to apply the provisions of this subparagraph where the compulsory license was issued pursuant to the provisions of Article 47 of this Decision;

(c) the compulsory license may be revoked, subject to the adequate protection of the legitimate interests of the licensee, where the circumstances that gave rise to it no longer obtain.

50. Except as provided in Article 40, licenses that do not conform to the provisions of this Section shall be devoid of legal effect.

Without prejudice to the provisions of this Section, the procedure for the grant of compulsory licenses shall be that laid down in the domestic legislation of the Member Countries.

Section VIII Legal Protection of the Patent

51. The owner of the patent or the person who considers himself entitled to a patent by virtue of this Decision may institute any actions claiming ownership or indemnification that are available to him under the national legislation of the Member Country concerned.

Without prejudice to any other action that may be available to him, the owner of the patent may, after the patent has been granted, bring action for damages against any person who, without his consent, has exploited the patented process or product, where such exploitation took place after the publication date of the patent application.

In cases of alleged infringement of a patent relating to a process for the manufacture of a product, the defendant shall be responsible for proving that the process used by him to manufacture the product is different from that protected by the patent allegedly infringed. To that end it shall be assumed, in the absence of proof to the contrary, that any identical product manufactured without the consent of the owner of the patent has been manufactured by means of the patented process if:

(a) the product manufactured by means of the patented process is new;

(b) there is a reasonable likelihood that the identical product was manufactured by means of the process, and the owner of the process patent is not able to establish, after reasonable effort, what process actually was used.

In the submission of proof to the contrary, due account shall be taken of the legitimate interests of the defendant with respect to the protection of his trade and manufacturing secrets.

Section IX Invalidation of the Patent

52. The competent national authority may, either *ex officio* or at the request of a party, declare the patent null and void, after the parties concerned have been heard, where:

(a) it has been granted in contravention of any of the provisions of this Decision;

(b) it has been granted on the basis of false or inaccurate particulars contained in the application which are essential.

Invalidation actions under this Article may be brought at any time.

Where the grounds specified above are applicable only to some of the claims or some parts of a claim, invalidation shall be pronounced only in respect of those claims or those parts of the said claim, as the case may be.

The patent, claim or part of a claim that has been invalidated shall be deemed null and void as from the filing date of the patent application.

Section X Lapse of the Patent

53. In order to keep the patent in force or maintain a pending patent application, as the case may be, periodical fees shall be paid as provided by the competent national office.

Before the patent is declared lapsed, the Member Countries shall allow the person concerned a period of six months within which to effect payment of the fees referred to in the foregoing paragraph. The patent or pending application shall remain in full force during the periods referred to.

CHAPTER II UTILITY MODELS

54. A utility model patent shall be granted to any new shape, configuration or arrangement of components of any device, tool, implement, mechanism or other object, or any part thereof, that makes for improved or different operation, use of manufacture of the object incorporating it, or which endows it with any usefulness, advantage or technical effect that it did not have previously.

55. Procedures and materials excluded from patent protection may not be the subject of utility model patents.

The following shall likewise not be considered utility models: sculptures, works of architecture, painting, engraving or stamping, or any other subject matter of purely aesthetic character.

56. The provisions of this Decision on patents shall be applicable to utility models, *mutatis mutandis*.

57. The term of the utility model shall be 10 years following the filing date of the application in the Member Country concerned.

CHAPTER III INDUSTRIAL DESIGNS

58. New industrial designs shall be registrable.

Any arrangement of lines or combination of colors, or any two-dimensional or three-dimensional outward shape, incorporated in an industrial or craft product in order to give it a special appearance without the intended purpose or use of the said product being thereby changed, and which serves as a model or pattern for manufacture, shall be considered an industrial design.

Industrial designs relating to clothing shall not be registrable, neither shall those that are contrary to morality, public policy or proper practice.

The industrial designs subject to the prohibitions provided for in Articles 82 and 83 of this Decision shall not be registrable.

59. An industrial design shall not be new if, before the filing date or validly claimed priority date, it has been made available to the public in any place or at any time by description, use or any other means.

An industrial design shall not be new by virtue of the mere fact that it embodies secondary differences in relation to earlier creations, or that it refers to a category of products different from that to which the said creations belong.

60. The application for registration shall contain the following:

(a) the identity of the applicant;

(b) a mention of the type of goods for which the industrial design is to be used, and the category to which those goods belong;

(c) a specimen of the object incorporating the design, or a graphic or photographic representation thereof.

Failure to comply with any of the requirements specified in this Article shall cause the competent national office to regard the application as not having been accepted for processing, and no filing date shall be assigned to it.

61. The application shall be accompanied, on filing, by such powers of attorney as may be necessary and by whatever other matter may be specified in the national legislation of the Member Countries.

62. On acceptance of the application for processing, the competent national office shall, within 15 working days following the filing thereof, examine whether it meets the conditions of form specified in this Chapter. If it does, the said office shall order one publication of the application.

63. Within 30 working days following publication, any person having a legitimate interest therein may comment on the registration. The handling of comments shall be subject to the same procedures as are laid down for comments on patent applications, *mutatis mutandis*, and also to those laid down for the purpose in the national legislation of the Member Countries.

64. Where no observations are submitted, or where they are rejected, the competent national office shall proceed with its examination of the novelty of the design.

65. The registration of an industrial design shall have a term of eight years, counted from the filing date of the application.

66. The file may not be consulted by third parties until publication has taken place, except where written consent has been obtained from the applicant. Once the publication has taken place, the file shall be public in character and may be consulted.

67. Member Countries shall use the International Classification established by the Locarno Agreement of October 8, 1968, for the organization and classification of industrial designs.

68. The first application validly filed in a Member Country, or in another country that grants reciprocal treatment to applications from Member Countries of the Cartagena Agreement, shall confer on the applicant or his successor in title a right of priority for a period of six months for the securing of registration in any of the other Member Countries.

69. Registration of an industrial design shall confer on the owner thereof the right to prohibit third parties from making use of the design concerned. By virtue of that prohibition, the owner of the registration shall be entitled to proceed against any third party who, without his consent, manufactures, imports, offers for sale, markets or makes commercial use of products reproducing the design.

Registration shall likewise confer the right to proceed against any person who produces or markets a product the design of which embodies only minor differences in relation to the protected design, or the appearance of which is the same.

The owner may transfer or license the design. Any license or change of ownership shall be registered with the competent national office.

70. The competent national authority may, either *ex officio* or at the request of a party, declare the registration null and void, after the parties concerned have been heard, where:

(a) it has been granted in contravention of any of the provisions of this Decision;

(b) it has been granted on the basis of false or inaccurate particulars contained in the application which are essential.

Invalidation actions under this Article may be brought at any time.

The registration that has been invalidated shall be deemed null and void as from the filing date of the application for registration.

71. The provisions of this Decision on patents shall be applicable, *mutatis mutandis*, to the owners of design registrations.

CHAPTER IV INDUSTRIAL SECRETS

72. Any person who lawfully takes control of an industrial secret shall be protected against the disclosure, acquisition or use of the said secret without his consent by third parties, and in a manner contrary to proper trade practice, insofar as:

(a) the information is secret in the sense that, as a whole or in terms of the exact configuration and composition of the elements thereof, it is not generally known or readily accessible to persons forming part of the circles that usually handle the type of information concerned;

(b) the information has an actual or potential commercial value attributable to its remaining secret;

(c) in the particular circumstances, the person who legally has the information under his control has taken reasonable steps to keep it secret.

The information constituting an industrial secret must always be related to the nature, characteristics or purpose of the products, production methods or processes, or the manner or forms of distribution or marketing of goods or rendering of services.

73. For the purposes of this Decision, information that is public property, is obvious to a person skilled in the art or has to be disclosed by legal provision or court order shall not be considered an industrial secret.

Information that is supplied to any authority by a person possessing it shall not be considered public property or disclosed by legal provision where the person supplies it for the purpose of obtaining licenses, permits, authorizations, registrations or any other official instruments.

74. The information considered an industrial secret shall exist in the form of documents, electronic or magnetic media storage means, optical discs, microfilm, motion picture film or other similar carriers.

75. The protection afforded under Article 72 shall last for as long as the circumstances provided for therein continue to obtain.

76. Any person keeping an industrial secret may transfer it to a third party or authorize a third party to use it. The authorized user shall be under the obligation not to disclose the industrial secret by any means, unless otherwise agreed with the person who has transferred the said secret to him or authorized him to use it.

Agreements for the transfer of technology or technical assistance or the provision of basic or detailed engineering know-how may include confidentiality clauses to protect the

industrial secrets embodied therein. The said clauses shall specify the aspects that are considered confidential.

77. Any person who, for reasons connected with his work, employment, responsibilities or instructions or with the conduct of his profession or business relations, has access to an industrial secret, and has been warned of the confidentiality thereof, shall abstain from making use of it and revealing it without just cause and without the consent of the person who keeps the said secret or that of the authorized user thereof.

78. Where a Member Country makes it a condition for the approval of the marketing of pharmaceutical goods or agrochemicals involving the use of new chemicals that experimental or other data be supplied that have not been published and are necessary for the verification of the safety and efficacy of the said products, the Member Country shall protect the said data where the generation thereof entails considerable effort, except where the publication of the data is necessary for the protection of the public, or where measures are taken to ensure the protection of the data against any improper use in trade.

79. No one other than the person who has supplied the data referred to in the foregoing Article may, without the latter's authorization, invoke that data in support of an application for the approval of a product during a period of not less than five years following the date on which the Member Country granted approval for the marketing of the product to the person who produced the data.

The provisions of the foregoing paragraph shall not prevent a Member Country from arranging summary approval procedures for such products on the basis of bioequivalence or bioavailability studies.

80. Where a Member Country relies on marketing approval granted in another country, the period of exclusive use of the information supplied with a view to obtaining the approval referred to in the foregoing Article shall be calculated from the date of the first marketing approval.

CHAPTER V MARKS

Section I Requirements for the Registration of Marks

81. Signs that are perceptible, sufficiently distinctive and susceptible of graphic representation may be registered as marks.

A mark shall be understood to be any perceptible sign capable of distinguishing on the market goods or services that are produced or marketed by one person from the identical or similar goods or services of another person.

82. Those signs may not be registered as marks that:

(a) cannot constitute marks according to the foregoing Article;

(b) consist of the everyday shape of goods or their packaging, or of shapes or characteristics dictated by the particular function of the product or service concerned;

(c) consist of shapes that afford a functional or technical advantage to the product or service to which they are applied;

(d) consist solely of a sign or statement that may serve in business to designate or describe, in relation to the goods or services for which they are to be used, their species, quality, quantity, purpose, value, place of origin or time of production, or impart other details, characteristics or information;

(e) consist solely of a sign or statement which, in everyday language or in business circles within the country, is the common or usual designation for the goods or services concerned;

(f) consist of a color in isolation, without any demarcation to give it a specific shape;

(g) are contrary to the law, morality, public policy or proper practice;

(h) are liable to deceive business circles or the public, in particular as to the source, nature, manufacturing methods, characteristics or qualities of the goods or services concerned, or their suitability for their purpose;

(i) reproduce or imitate a protected appellation of origin, consist of a national or foreign geographical designation that is liable to be misleading in relation to the products or services to which it is applied or, in use, to mislead the public as to the origin, source, qualities or characteristics of the goods for which the marks are used;

(j) reproduce or imitate the name, coat of arms, flag or other emblem, initials or designation or abbreviated designation of any State or any international organization that has been officially recognized, without the permission of the competent authority of the State or of the international organization concerned; in any event, such signs shall be registrable only where they constitute a subsidiary element in relation to the main distinctive sign;

(k) constitute signs denoting conformity with technical standards, except where the registration thereof is applied for by the national body responsible for standards and quality requirements in Member Countries;

(l) reproduce coins or banknotes that are legal tender on the territory of the country, or of any country, or securities and other business documents, seals, impresses, imprints or tax stamps in general;

(m) consist of the denomination of a protected plant variety or of a variety essentially derived therefrom.

83. Those signs may likewise not be registered as marks that have any of the following impediments in relation to third-party rights:

(a) they are identical, or so similar as to mislead the public, to a mark filed for registration or registered earlier by a third party for the same products or services, or for products and services with respect to which the use of the mark might mislead the public;

(b) they are identical or similar to a protected trade name in accordance with the domestic legislation of the Member Countries, insofar as they might, under the circumstances, mislead the public;

(c) they are identical or similar to a registered advertising slogan, insofar as they might, under the circumstances, mislead the public;

(d) they constitute a total or partial reproduction, imitation, translation or transcription of a distinctive sign that is commonly known to the sectors concerned in the country in which registration is sought or in subregional or international business, subject to reciprocity, and belongs to a third party; this prohibition shall be applicable, without regard to sectoral considerations, both where the use of the sign is intended for the same goods or services as are covered by the well-known mark and in those where it is intended for different goods or services.

This provision shall not be applicable where the applicant is the lawful user of the well-known mark;

(e) they are confusingly similar to a well-known mark, without regard to the type of product or service for which registration is sought.

This provision shall not be applicable where the applicant is the lawful user of the well-known mark;

(f) they consist of the full name, surname, pseudonym, signature, caricature or portrait of a natural person different from the applicant or identifiable by the general public as being such a different person, except where proof is given of the consent of that person or of his heirs, in accordance with the formalities laid down by the corresponding domestic legislation;

(g) they are the titles of literary, artistic or scientific works and the names of fictional or symbolic characters that are covered by copyright belonging to a third party, except where his consent has been obtained.

84. In order to establish whether a mark is well known, due account shall be taken, in particular, of the following criteria:

(a) the extent to which it is known to the consuming public as the distinguishing mark of the goods or services for which it was granted registration;

(b) the scale and scope of the dissemination and advertising or promotion of the mark;

(c) the age of the mark and the constancy of its use;

(d) analysis of the production and marketing of the goods identified by the mark.

85. In order to facilitate the protection of well-known marks, the competent national offices shall establish an appropriate system of notification and information.

86. Where the mark consists of a geographical name, the product may not be marketed without there being a visible and clearly legible mention thereon of its place of manufacture.

Section II Registration Procedure

87. The application for the registration of a mark shall be filed with the competent national office concerned and shall provide the following particulars:

- (a) the identity of the applicant;
- (b) a clear and full description of the mark to be registered;
- (c) a mention of the goods or services of the class in which the registration of the mark is applied for;
- (d) proof of payment of the prescribed application fee.

Failure to comply with any of the requirements specified in this Article shall cause the competent national office to regard the application as not having been accepted for processing, in which case no filing date shall be assigned to it.

88. The following documents shall be filed with the application:

- (a) such powers of attorney as are necessary;
- (b) a clear and full description of the mark filed for registration, with a view to the publication thereof;
- (c) a copy of the first application for registration where priority is claimed, with an express mention thereof;
- (d) a reproduction of the mark where it contains graphic elements;
- (e) any other requirements laid down by the domestic legislation of the other Member Countries.

89. The applicant for registration of a mark may amend his initial application only with respect to minor features. He may also delete or limit the main products or services specified.

The competent national office may, at any stage in the processing, request the applicant to make alterations to the application. The said request for alterations shall conform to the provisions of Article 91 of this Decision.

In the cases provided for in this Article, the application may not be amended by alteration of the sign or by addition to the main products or services specified.

90. When the application has been accepted for processing, the competent national office shall, within 15 working days following filing, examine whether it complies with the conditions of form specified in this Chapter.

91. If it emerges from the examination that the application does not comply with the conditions of form specified in this Chapter, the competent national office shall notify the applicant so that he may remedy the defects within a period of 30 working days following notification. This period may be prolonged once, for 30 further working days, without the application losing its priority.

If the defects are not remedied within the period allowed, the application shall be rejected.

92. If the application for registration meets the conditions of form laid down in this Chapter, the competent national office shall order a single publication thereof.

93. Within 30 working days following such publication, any person having a legitimate interest may submit comments on the registration applied for.

For the purposes of this Article, it shall be understood that both the owner of an identical or similar mark, for goods or services in relation to which the use of the other mark would be liable to mislead the public, and the person who first applied for registration of the mark in any of the Member Countries likewise have an interest in submitting comments in other Member Countries.

94. The competent national office shall disallow comments in any of the following cases:

(a) the comments have been submitted at the wrong time;

(b) they are based on an application bearing a date later than that of the application for registration of a mark to which they relate;

(c) they are based on conventions or treaties not applicable in the Member Country in which the application for the registration of a mark is being processed;

(d) the prescribed processing fees have not been paid.

95. Once the comments have been allowed, having been found not to be in any of the cases specified in the foregoing Article, the competent national office shall notify the applicant so that, within 30 working days following the said notification, he may present his arguments if he sees fit.

On expiration of the period referred to in this Article, the competent national office shall rule on the comments and on the grant or refusal of registration of the mark, and shall notify its ruling to the applicant in a duly reasoned decision.

96. On expiration of the period specified in Article 93 without any comments having been submitted, the competent national office shall proceed to carry out the examination of

registrability and to grant or refuse registration of the mark. This fact shall be communicated to the person concerned in a duly reasoned decision.

97. Registration may be granted for a mark that has been used on goods or in connection with services at an officially recognized exhibition held within the country where it is applied for within six months following the date on which the said goods or services were first presented under the said mark. In that case the application may be considered filed as from the date of such presentation.

The facts referred to in this Article shall be attested by a certificate issued by the competent body responsible for the exhibition, which shall mention the date on which the mark was first used in connection with the goods or services concerned.

98. The registration of a mark shall have a term of 10 years following the date of grant and may be renewed for successive 10-year periods.

99. The renewal of the registration of a mark may be requested of the competent national office within six months prior to the expiration of registration. Nevertheless, the owner of the mark shall be allowed a six-month period of grace as from the expiration date of the registration for requesting renewal, which request shall be accompanied by proof of the appropriate payments, if the domestic legislation of the Member States so provides. During the said period, the registration of the mark or the pending application shall remain in full force.

Renewal shall not require proof of use of the mark, and shall be granted automatically on the same terms as the expiring registration. However, the owner's right subsequently to renounce some or all of the goods or services covered by the said mark shall not be affected thereby.

100. No comments shall be allowed against an application filed within six months following the expiration of the period of grace referred to in the foregoing Article, in respect of the same mark, by the person who was the last owner thereof if they are based on a third party's registration that had previously coexisted with the mark applied for.

101. The Member Countries shall use the Nice International Classification of June 15, 1957, including its revised and updated versions.

Section III **Rights Conferred by Registration**

102. The right to the exclusive use of a mark shall be acquired by registration of the said mark with the competent national office concerned.

103. The first application for registration of the mark validly filed in a Member Country, or in another country that grants reciprocal treatment to applications from Member Countries of the Cartagena Agreement, shall confer on the applicant or his successor in title a right of priority, with a duration of six months from the filing date of the said application, for applying for registration of the same mark in any of the Member Countries of the Cartagena

Agreement. The said application may not claim use in connection with goods or services different from or additional to those contemplated in the first application.

104. Registration of the mark shall confer on its owner the right to proceed against any third party who, without his consent, performs any of the following acts in relation to goods or services identical or similar to those for which the mark has been registered:

(a) using or affixing the mark, or a sign similar to it, in such a way as might mislead the public or create situations that might be prejudicial to the owner of the mark;

(b) selling, offering for sale, storing or marketing goods bearing the mark, or offering services thereunder;

(c) importing or exporting goods bearing the mark; or

(d) using, in business dealings, a sign identical or similar to the registered mark in connection with goods or services different from those for which the mark has been registered, where the use of the sign in connection with those goods or services might mislead or confuse the public, might unjustly harm the owner's economic or business interests, or might dilute the distinctive force or commercial value of the said mark; or

(e) any other act which, by its nature or purpose, could be considered comparable or capable of assimilation to those mentioned in the other subparagraphs of this Article.

105. Provided that it is done in good faith and does not constitute use as a mark, a third party may, without the consent of the owner of the registered mark, make use on the market of his own name, address or pseudonym, a geographical name or any other precise statement concerning the nature, quality, purpose, value, place or origin or time of production of his goods or rendering of his services, or other characteristics thereof, provided also that such use is confined to identification or information purposes and is not liable to mislead the public as to the source of the goods or services.

The registration of the mark shall not confer on its owner the right to prohibit a third party from using the mark to publicize, offer for sale or advertise the existence or availability of lawfully marked goods or services, or from using it to advertise the compatibility or suitability of spare parts or accessories that may be used with goods bearing the registered mark, provided that such use is made in good faith, is confined to the purpose of informing the public and is not liable to mislead or confuse as to the corporate origin of the goods concerned.

The owner of the registered mark may bring such actions as are available against third parties who use, in business dealings and without his consent, an identical or similar mark or sign to distinguish identical or similar goods or services, where such identicalness or similarity will mislead the public.

106. The right conferred by registration of the mark shall not entitle the owner thereof to prohibit a third party from making use of the said mark in relation to the branded goods of the said owner, his licensee or any other person authorized for the purpose, where the goods have been sold or otherwise lawfully brought on to the national market of any country by

those persons, provided that the characteristics of the said goods have not been modified or altered in the course of marketing.

107. Where registrations of an identical or similar mark exist in the Subregion in the name of different owners for the identification of the same goods or services, the marketing of the goods or services identified with that mark in the territory of the Member Country concerned shall be prohibited, except where the owners of the said marks enter into agreements allowing such marketing.

In the event of such agreements having been entered into, the parties shall take the necessary precautions to avoid misleading the public as to the origin of the goods or services concerned, which shall include matters relating to the identification of the origin of the goods or services in question in appropriate and prominent characters for the proper information of the consuming public. The said agreements shall be registered with the competent national offices and shall conform to the standards governing business practices and the promotion of competition.

In any event, the importation of a product or service that is in the situation described in the first paragraph of this Article shall not be prohibited where the mark is not being used on the territory of the importing country, as provided in the first paragraph of Article 110, except where the owner of the said mark satisfies the competent national office that the non-use of the mark is justified by legitimate factors.

Section IV Cancellation of Registration

108. The competent national office shall cancel the registration of a mark at the request of any interested person when, without just cause, the mark has not been used in at least one of the Member Countries, by either the owner or his licensee, during the three consecutive years preceding the date on which the cancellation action was initiated. Cancellation of a registration for non-use of the mark may also be sought as a means of defense in an infringement, opposition or invalidation action brought on the basis of the unused mark.

The following shall be understood to be proof of use of the mark:

1. business invoices that show the regularity and scale of marketing at least during the year prior to the initiation of proceedings for cancellation of the registration for non-use;
2. inventories of merchandise bearing the mark the existence of which is certified by a firm of auditors and affords evidence of regular production or sale at least during the year prior to the initiation of proceedings for cancellation of the registration non-use;
3. any other element of proof allowed by the legislation of the Member Country in which the cancellation is requested.

The burden of proof of use of the mark shall be on the owner of the registration.

The registration may not be cancelled where the owner thereof shows that the non-use is due to force majeure, a chance occurrence or restrictions on imports, or to other official requirements imposed on the goods and services protected by the mark.

The competent national office shall also cancel the registration of a mark, at the request of the rightful owner thereof, where the said mark is identical or similar to a mark that was well known, within the meaning of the legislation in force, on the filing of the application for registration.

109. On receipt of a request for cancellation, the competent national office shall notify, the owner of the registered mark so that, within a period of 30 working days following the notification, he may present such arguments as he considers appropriate to prove use of the mark.

On expiration of the period referred to in this Article, the competent national office shall decide on whether or not to cancel the registration of the mark, which decision it shall notify to the parties in a duly reasoned finding.

110. A mark shall be considered to be in use where the goods or services distinguished by it have been brought into circulation or are available on the market under that mark, in such form and quantities as are normally appropriate, due account being taken of the nature of the goods or services and the procedures according to which their market distribution takes place.

A mark shall also be considered used when it distinguishes goods intended solely for exportation from any of the Member Countries, as provided in the foregoing paragraph.

Use of the mark in a form that differs from that in which it was registered only with respect to details or features that do not alter its distinctive character shall not constitute grounds for cancellation of registration for non-use, or lessen the protection afforded to the mark.

111. The person who wins a favorable decision shall have a preferential right to registration if he applies for it within three months of the date on which the ruling that ended the procedure for the cancellation of the mark came into effect.

112. The owner of the registration of a mark may renounce his rights in the registration.

Where renunciation is partial, the cancellation of the registration shall relate only to those goods or services that the owner has renounced.

Renunciation shall not be allowed where there are third-party rights or encumbrances or licenses in relation to the mark that are registered with the competent national office, except where the owners of the said rights have given their express agreement.

Renunciation of the mark shall come into effect only when registration in the appropriate registers kept by the competent national office has taken place.

Section V Invalidation of Registration

113. The competent national authority may, either *ex officio* or at the request of a party, declare the registration of a mark null and void, after the interested parties have been heard, where:

(a) registration has been granted in contravention of any of the provisions of this Decision;

(b) registration has been granted on the basis of particulars or documents previously declared false or inaccurate by the competent national office, which were contained in the application and which are essential;

(c) registration has been obtained in bad faith.

The following in particular shall be considered cases of bad faith:

1. where a representative, distributor or user having relations with the owner of a mark registered abroad applies for and obtains, in his own name, the registration of that mark or another susceptible of confusion with it without the express consent of the owner of the foreign mark;

2. where the application for registration has been filed, or the registration has been obtained, by a person whose usual activity is the registration of marks for the purposes of marketing.

Invalidation actions under this Article may be brought at any time.

Section VI Lapse of Registration

114. The registration of the mark shall lapse where the owner does not request renewal within the legal time limit, including the period of grace, as provided in this Decision.

Failure to pay fees within the time limits allowed by the domestic legislation of the Member Country shall likewise be a cause of lapse.

Section VII Licensing and Transfer of Marks

115. The owner of a trademark or service mark that is registered and in force may assign its use or transfer it by written agreement.

116. Assignments and transfers of marks that take place under the legislation of each Member Country shall be registered with the competent national office.

117. License agreements shall be registered with the competent body of the Member Country concerned, may not contain market-restricting clauses and shall conform to the

Andean subregional order, and in particular to the Common System for the Treatment of Foreign Capital and for Marks, Patents, Licenses and Royalties.

Section VIII Advertising Slogans

118. The Member Countries may register advertising slogans as marks in conformity with their national legislation.

An advertising slogan is understood to be the word, phrase or caption used to complement a mark.

119. The application for the registration of an advertising slogan shall specify the mark applied for or registered with which it is to be used.

120. Advertising slogans may not be registered where they contain references to similar goods or marks or expressions that might be prejudicial to such goods or marks.

121. An advertising slogan shall be transferred together with the mark with which it is associated, and its validity shall be conditional on that of the mark.

122. The relevant provisions of the chapter of this Decision on marks shall be applicable to this Section, *mutatis mutandis*.

Section IX Collective Marks

123. A collective mark shall be understood to be any mark that serves to distinguish the origin or any other characteristic common to goods or services from different firms that use the mark under the owner's control.

124. Legally established associations of producers, manufacturers, providers of services, organizations or groups of persons may apply for the registration of a collective mark to distinguish the goods or services of their members on the market from those that do not form part of the said associations, organizations or groups of persons.

125. The application for registration shall specify that it is for a collective mark, and shall be accompanied by:

(a) a copy of the statutes of the association, organization or group of persons applying for registration of the collective mark;

(b) a copy of the rules that the applicant for the collective mark uses for the control of the goods or services concerned;

(c) a statement of the conditions on and form in which the collective mark is to be used in connection with the goods or services;

(d) the list of members;

(e) any other requirements laid down by the domestic legislation of the Member Countries.

Once registration of the collective mark has been secured, the association, organization or group of persons shall inform the competent national office of any changes that may occur in any of the documents referred to in this Article.

126. The collective mark may be transferred to third parties provided that the consent of the association, organization or group of persons has been obtained, and also the consent of the competent national office. In any case, its use shall be reserved for the members of the association, organization or group of persons.

The collective mark may not be licensed to persons different from those authorized to use the mark in accordance with the rules on the use thereof.

127. Collective marks and the national rules thereon shall be governed by the provisions of the chapter of this Decision on marks, *mutatis mutandis*. Without prejudice to the foregoing, the processing of the application for the collective mark shall be governed by national provisions in each Member Country.

CHAPTER VI TRADE NAMES

128. Trade names shall be protected by the Member Countries without any deposit or registration obligation. Where domestic legislation provides a system of registration, the relevant provisions of the chapter of this Decision on marks shall apply, as shall the provisions enacted for the purpose by the Member Country concerned.

CHAPTER VII APPELLATIONS OF ORIGIN

129. An appellation of origin shall be understood to be a geographical designation consisting of the name of a particular country, region or locality, or of a name which, without being that of a particular country, region or locality, refers to a specific geographical area, which name is used to designate a product originating therein the qualities or characteristics of which are exclusively or essentially due to the geographical environment in which it is produced, including both natural and human factors.

130. The use of appellations of origin in relation to natural, agricultural, craft or industrial products from the Member Countries shall be exclusively reserved for the producers, manufacturers and craftsmen who have their production or manufacturing establishments in the locality or region within the Member Country that is identified or evoked by the said appellation.

131. The right to the exclusive use of an appellation of origin shall originate with the declaration that the competent national office makes to that end. The use of appellations of origin by unauthorized persons shall be considered a sanctionable act of unfair competition,

and shall include cases in which they are used in conjunction with qualifying terms such as “style,” “type,” “imitation” and other similar terms that create confusion in the mind of the consumer.

132. Those appellations of origin may not be declared such that:

(a) do not conform to the definition contained in Article 129;

(b) are contrary to proper practice or public policy, or are liable to mislead the public as to the source, nature, manner of manufacture or characteristics or qualities of the products concerned;

(c) are common or generic terms that distinguish the product concerned, that is, terms considered such both by persons with knowledge of the area concerned and by the general public.

133. The declaration of protection of an appellation of origin shall be made *ex officio* or at the request of persons who can prove a legitimate interest, understood as being natural persons or legal entities directly engaged in the extraction, production or processing of the product or products to be covered by the appellation of origin. State, departmental, provincial or municipal authorities shall likewise be considered interested where the appellations of origin refer to their own areas of concern.

134. The application for the declaration of protection of an appellation of origin shall be filed in writing with the competent national office, at which time the following shall be specified:

(a) name, domicile, residence and nationality of the applicant or applicants, and legal interest;

(b) the appellation of origin in respect of which the application is filed;

(c) the geographical area within which the production, extraction or processing of the product to be identified by the appellation takes place, demarcated according to geographical features and political divisions;

(d) a detailed description of the product or products that the appellation applied for will identify, together with the characteristics thereof;

(e) any other information stipulated by the competent national office.

135. Where the application has been accepted for consideration, the competent national office shall, within the following 30 working days, ascertain whether it complies with the requirements laid down in this Chapter and in the domestic legislation of the Member Countries, whereupon it shall observe the procedure for publication of the application and presentation of comments laid down in this Decision for the registration of marks.

136. The validity of the declaration conferring exclusive rights in the use of an appellation of origin shall be subject to the continuing existence of the conditions on which it was based, as determined by the competent national office, which may declare that validity

terminated if the said conditions no longer obtain. Nevertheless, the persons concerned may apply for renewal of the said validity where they consider that the conditions on which protection was based have been restored, without prejudice to the administrative appeals provided for in the domestic legislation of each Member Country.

137. Authorization to use an appellation of origin declared protected by the competent national office shall be applied for before the said office by those persons who:

(a) are directly engaged in the extraction, production or processing of the products identified by the appellation of origin:

(b) conduct the said activity within the territory specified in the declaration;

(c) comply with other requirements imposed by competent national offices.

138. Authorization shall be granted or denied by the competent national office within a period of 15 working days following the filing date of the application.

139. Authorization to use a protected appellation of origin shall have a term of 10 years, which term may be renewed by equal periods in accordance with the procedure laid down in this Decision for the renewal of marks.

140. The competent national office may, either *ex officio* or at the request of a party, invalidate the authorization to use a protected appellation of origin, after the parties have been heard, if it has been granted in contravention of this Decision.

141. Authorization to use a protected appellation of origin shall lapse if the renewal thereof is not applied for within the periods laid down in this Decision for the renewal of marks.

Failure to pay fees shall likewise be a cause of lapse, under the conditions specified in the national legislation of each Member Country.

142. Competent national offices may declare appellations of origin of countries of the Subregion protected where the application for such protection is filed by those of their producers, extractors, manufacturers or craftsmen who have a legitimate interest, or by the public authorities of those countries. In the case of other countries, the competent national offices may declare protection insofar as such a measure is provided for in any convention to which the Member Country is party, or where the other country grants the Member Country reciprocal treatment in that connection. For the said protection to be applied for, the appellations of origin must have been declared such in their countries of origin.

Appellations of origin protected in other countries shall not be considered common or generic appellations for distinguishing any product for as long as the said protection subsists.

CHAPTER VIII COMPLEMENTARY PROVISIONS

143. The Member Countries may, in their own domestic legislation or under international treaties, strengthen the industrial property rights provided for in this Decision. In such cases the Member Countries undertake to inform the Commission of action so taken.

144. Industrial property matters not covered by this Decision shall be provided for in the domestic legislation of the Member Countries.

145. The competent national offices may introduce such fees as they consider necessary for the handling of the procedures referred to in this Decision.

146. With a view to the consolidation of a system of community administration, the Member Countries undertake to ensure the best implementation of the provisions contained in this Decision. They likewise undertake to strengthen, promote the independence of and modernize the competent national offices and the state-of-the-art information systems and services.

In addition, with a view to the establishment of a mutual information system among the Member Countries, the competent national offices shall send their industrial property gazettes or bulletins, as soon as possible following the publication thereof, to the other Member Countries. The said gazettes or bulletins shall be made available to the public for consultation at the receiving office.

147. The Member Countries undertake to revise their administrative procedures with a view to safeguarding the rights and obligations accruing to individuals in conformity with this Decision.

FINAL PROVISION

Sole Provision. For the purposes of this Decision, Competent National Office means the administrative body responsible for the registration of industrial property rights.

Similarly, Competent National Authority means the body designated for the purpose by the relevant domestic legislation.

TRANSITIONAL PROVISIONS

First. Any industrial property right validly granted under the legislation existing prior to the date of entry into force of this Decision shall subsist throughout the period for which it was granted. With respect to its use and enjoyment, and also obligations, licensing, renewals and prolongations, the provisions laid down in this Decision shall apply”.

Second. This Decision shall be applicable in the Member Countries as from January 1, 1994.

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- * *Spanish title:* Decisión 344. Régimen Común sobre Propiedad Industrial.
Entry into force: January 1, 1994.
Source: *Gaceta Oficial del Acuerdo de Cartagena*, X—No. 142, of October 29, 1993.
Note: Translation by the International Bureau of WIPO.
- ** Added by WIPO.