AFRICAN INTELLECTUAL PROPERTY ORGANIZATION (OAPI)
Bangui Agreement
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Article 1 Definitions

The following terms have the meanings specified:

“Bangui Agreement” means the Agreement Relating to the Creation of an African Intellectual Property Organization, done at Bangui on March 2, 1977, and all the Annexes to it;

“Organization” means the African Intellectual Property Organization;

“High Commission of Appeal” means the High Commission of Appeal of the Organization;

“Chairman” means the Chairman of the Administrative Council of the Organization;

“Director General” means the Director General of the Organization;

“Member States” means the States members of the Organization;

“Paris Convention” means the Paris Convention for the Protection of Industrial Property, concluded at Paris on March 20, 1883, as subsequently amended;


“National administration” means the Ministry of each Member State that is in charge of industrial property matters;

“Berne Convention” means the Berne Convention for the Protection of Literary and Artistic Works, concluded at Berne on September 9, 1886, as subsequently amended;

TITLE I GENERAL PROVISIONS

Section I Fundamental Principles

Article 2 Creation and Responsibilities
(1) The African Intellectual Property Organization created by the Bangui Agreement of March 2, 1977, is responsible for
(a) implementing and applying the common administrative procedures deriving from a uniform system for the protection of industrial property, as well as the provisions of international agreements in this field to which the member States of the Organization have acceded, and providing services related to industrial property;
(b) contributing to the promotion of the protection of literary and artistic property as an expression of cultural and social values;
(c) encouraging the creation of associations of national authors in those member States where such bodies do not exist;
(d) centralizing, coordinating and disseminating information of all kinds relating to the protection of literary and artistic property and communicating that information to any State party to this Agreement that requests it;
(e) promoting the economic development of member States, notably by means of effective protection of intellectual property and related rights;
(f) providing intellectual property training;
(g) undertaking any other assignment connected with its objective that might be entrusted to it by the member States.

(2) For each of the member States, the Organization shall serve both as the national industrial property service within the meaning of Article 12 of the aforementioned Paris Convention and as the central patent documentation and information body.

(3) For each of the member States also party to the Patent Cooperation Treaty, the Organization shall serve as the “national Office,” the “designated Office,” the “elected Office” or the “receiving Office” within the meaning of Article 2(xii), (xiii), (xiv) and (xv) of the said Treaty.

(4) For each of the member States also party to the Trademark Registration Treaty, the Organization shall serve as the “national Office” within the meaning of Article 2(xiii) and as the “designated
Office” within the meaning of Article 2(xv) of the said Treaty.

Article 3 Nature of the Rights
(1) Rights relating to the fields of intellectual property, as provided for in the Annexes to this Agreement, shall be independent national rights subject to the legislation of each of the member States in which they have effect.

(2) Nationals may claim application for their benefit of the provisions of the Paris Convention for the Protection of Industrial Property (1967 Act), the Berne Convention for the Protection of Literary and Artistic Works (1971 Act), the Universal Copyright Convention, the Agreement on Trade-Related Aspects of Intellectual Property Rights and also the agreements, additional acts and closing protocols that have amended or will amend those Conventions or that Agreement, in all cases where such provisions are more favorable than those of this Agreement and its Annexes in protecting the rights deriving from intellectual property.

Article 4 Annexes
(1) The Annexes to this Agreement contain, respectively, the provisions to be applied in each member State concerning
- patents (Annex I);
- utility models (Annex II);
- trademarks and service marks (Annex III);
- industrial designs (Annex IV);
- trade names (Annex V);
- geographical indications (Annex VI);
- literary and artistic property (Annex VII);
- protection against unfair competition (Annex VIII);
- layout-designs (topographies) of integrated circuits (Annex IX);
- plant variety protection (Annex X).

(2) The Agreement and its Annexes shall be applicable in their entirety to every State that ratifies or accedes to the said Agreement.

(3) Annexes I to X inclusive form an integral part of this Agreement.

Article 5 Implementation of International Treaties
On a decision by the Administrative Council referred to in Article
27 and subsequent Articles of this Agreement, the Organization may take all measures necessary for the application of the administrative procedures arising from implementation of the international treaties concerning intellectual property to which the member States have acceded.
Section II Operating Procedures and Rules

Article 6 Filing of Applications

(1) Patent applications, applications for the registration of utility models, trademarks or service marks, industrial designs, trade names, geographical indications or layout-designs (topographies) of integrated circuits and applications for plant variety certificates shall be filed direct with the Organization.

(2) Notwithstanding paragraph (1), any member State may demand that the application be filed with the national administration of that State where the applicant is domiciled on its territory. A record shall be taken, and a copy thereof issued to the applicant, by the national administration which shall attest every filing and specify the date and time of the filing of the documents. The national administration shall convey the application to the Organization within a period of five (5) working days from filing.

(3) Applicants domiciled outside the territory of the member States shall file through an agent selected in one of those member States. The exercise of the profession of agent accredited to the Organization shall be governed by special rules adopted by the Administrative Council.

(4) Applications filed with the Organization or the national administration may be conveyed by postal or any other legal means of communication.

(5) (a) The Organization shall act as receiving Office within the meaning of the Patent Cooperation Treaty with respect to international applications filed by residents and nationals of member States, except where an agreement within the meaning of subparagraph (b) below has been concluded.

(b) The Organization may, under the relevant provision of the Regulations Under the Patent Cooperation Treaty, agree with another Contracting State of the Patent Cooperation Treaty or with any other intergovernmental organization that the national Office of that State or that intergovernmental organization shall act in place of the Organization as receiving Office for applicants who are residents or nationals of a member State.
Article 7 Filing and Registration of National and International Applications

(1) Subject to the provisions of paragraphs (2) to (4) below, any filing effected with the administration of one of the member States in accordance with the provisions of this Agreement, or with the Organization, shall be equivalent to a national filing in each member State.

(2) Any filing of an international patent application that includes the designation of at least one member State shall be equivalent to a national filing in each member State that is also party to the Patent Cooperation Treaty.

(3) Any international trademark registration effected under the provisions of the Trademark Registration Treaty and including the designation of at least one member State shall have the effect of a national filing in each member State that is also party to the said Treaty.

(4) Any international deposit of an industrial design effected under the provisions of the Hague Agreement Concerning the International Deposit of Industrial Designs shall have the effect of a national deposit in each member State that is also party to the said Agreement.

Article 8 Grant, Publication and Maintenance of Patents, Registration of Utility Models, and the Effects Thereof

(1) The Organization shall undertake the examination of patent and utility model applications according to the common procedure provided for in this Agreement and its Annexes I and II.

(2) It shall grant patents and register utility models and ensure their publication.

(3) The procedure before the Organization with regard to international applications filed in accordance with the rules of the Patent Cooperation Treaty shall be subject to the provisions of the said Treaty, complemented by those of this Agreement and its Annex I.

(4) In each Member State, utility models and, subject to the provisions of paragraph (5) below, patents shall produce the effects
provided for in this Agreement and its Annexes.

(5) Patents granted in response to international applications filed in accordance with the provisions of the Patent Cooperation Treaty shall produce their effects in those member States that are also party to the said Treaty.

Article 9 Registration and Publication of Trademarks and Service Marks, and the Effects Thereof

(1) The Organization shall undertake the examination, registration and publication of trademarks and service marks according to the common procedure provided for in this Agreement and its Annex III.

(2) In each of the member States, registered and published marks shall produce their effects in accordance with the provisions of this Agreement and its Annex III subject to the provisions of paragraph (3) below.

(3) The international registration of a mark effected under the provisions of the Trademark Registration Treaty and having effect in at least one member State shall produce the same effects in each of the States party to this Agreement and to the Trademark Registration Treaty as if the trademark had been registered with the Organization.

Article 10 Registration, Maintenance and Publication of Industrial Designs, and the Effects Thereof

(1) The Organization shall undertake the examination, registration and maintenance and the publication of industrial designs according to the common procedure provided for in this Agreement and its Annex IV.

(2) In each of the member States, registered and published industrial designs shall produce their effects in accordance with the provisions of this Agreement and its Annex IV, subject to the provisions of paragraph (3) below.

(3) The international deposit of an industrial design effected under the provisions of the Hague Agreement Concerning the International Deposit of Industrial Designs and having effect in at least one member State shall produce the same effects in each of the States party to this Agreement and to the Hague Agreement as if the
industrial design had been deposited with the Organization.

Article 11 Registration and Publication of Trade Names, and the Effects Thereof
(1) The Organization shall undertake the examination, registration and publication of trade names according to the common procedure provided for in this Agreement and its Annex V.

(2) In each of the member States, registered and published trade names shall produce their effects in accordance with this Agreement and its Annex V.

Article 12 Registration and Publication of Geographical Indications, and the Effects Thereof
(1) The Organization shall undertake the examination, registration and publication of geographical indications according to the common procedure provided for in this Agreement and its Annex VI.

(2) In each of the member States, registered and published geographical indications shall produce their effects in accordance with the provisions of this Agreement and its Annex VI, subject to the provisions of paragraph (3) below.

(3) The international registration of a geographical indication effected under the provisions of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration and having effect in at least one member State shall produce the same effects in each of the States party to this Agreement and to the Lisbon Agreement as if the geographical indication had been registered with the Organization.

Article 13 Registration, Maintenance and Publication of Layout-Designs (Topographies) of Integrated Circuits, and the Effects Thereof
(1) The Organization shall undertake the examination and registration and provide for the maintenance and publicity of layout-designs (topographies) of integrated circuits according to the common procedure provided for in this Agreement and its Annex IX.

(2) In each of the member States, registered and published layout-designs (topographies) of integrated circuits shall produce their
effects in accordance with the provisions of this Agreement and its Annex IX.

**Article 14 Registration, Maintenance and Publication of New Plant Varieties**

(1) The Organization shall undertake the examination and provide for the registration, maintenance and publicity of new plant varieties according to the common procedure provided for in this Agreement and its Annex X.

(2) In each of the member States, registered and published new plant varieties shall produce their effects in accordance with the provisions of this Agreement and its Annex X.

**Article 15 Publications of the Organization**

Any publication of the Organization shall be addressed to the administration of each of the member States responsible for industrial property, literary and artistic property or new plant varieties, as the case may be.

**Article 16 Special Registers**

(1) The Organization shall maintain, for all the member States, a Special Register of Patents, a Special Register of Utility Models, a Special Register of Trademarks and Service Marks, a Special Register of Industrial Designs, a Special Register of Trade Names, a Special Register of Geographical Indications, a Special Register of New Plant Varieties and a Special Register of Layout-Designs (Topographies) of Integrated Circuits, in which the entries specified by this Agreement shall be made.

(2) Any person may consult the Registers and obtain extracts therefrom on the terms specified in the Implementing Regulations.

**Article 17 Divergent Provisions**

In the case of discrepancies between the provisions of this Agreement or its Annexes and those of the international conventions to which the member States are party, the latter shall prevail.

**Article 18 Scope of Legal Decisions**

Final legal decisions relating to the validity of titles and rendered in one member State under the provisions of Annexes I to X
of this Agreement shall be binding on all other member States, with the exception of decisions based on public policy and morality.

Article 19 Appeals
Decisions taken by the Organization on cases of rejection or opposition provided for in Article 33(2) below shall be subject to appeal to the High Commission of Appeal of the said Organization.

Article 20 Other Action
Any other action relating to the application of the laws of intellectual property may be entrusted to the Organization by unanimous decision of the Administrative Council.
TITLE II MEMBER STATES

Section I Membership

Article 21 Membership
(1) Membership of the Organization shall be determined by the principle of the sovereign equality of States.

(2) In addition to its members, the Organization may have associated States. Associated States are not member States.

Article 22 Member States
(1) African States party to the Bangui Agreement of March 2, 1977, are members of the Organization ex officio.

(2) Any African State that is not party to the Bangui Agreement but is party to the Convention Establishing the World Intellectual Property Organization, the Paris Convention for the Protection of Industrial Property, the Berne Convention for the Protection of Literary and Artistic Works and/or the Universal Copyright Convention, and the Patent Cooperation Treaty may accede to this Agreement. To that end, an application for accession shall be submitted to the Administrative Council, which shall rule by a majority vote of its members. Notwithstanding Article 32 of this Agreement, equally divided votes shall constitute rejection.

(3) Instruments of ratification of or accession to this Agreement shall be deposited with the Director General of the Organization.

(4) Accession shall take effect two months after the deposit referred to in paragraph (3) above, except where a later date has been specified in the instrument of accession.

Article 23 Associated States
(1) Any African State not party to this Agreement may acquire the status of associated State by filing an application to that end with the Administrative Council.

(2) The Administrative Council shall rule on that application in the same way as provided in Article 22(2) above.
Section II Rights and Obligations of Member States

Article 24 Rights of Member States
In addition to exercising the responsibilities provided for in Article 2 above, the Organization shall offer member States all the required services connected with its aims, in accordance with the guidelines of the Administrative Council.

Article 25 Rights of Associated States
An associated State has the right, to the exclusion of any other right, to avail itself of the services offered by the Organization in connection with intellectual property documentation and information.

Article 26 Obligations
(1) An initial financial contribution shall be required of any State that becomes a member of the Organization or acquires the status of associated State. The amount and methods of payment of that initial contribution shall be determined by the Administrative Council of the Organization. Nevertheless, States recognized as ex-officio members of the Organization under Article 22(1) above shall be exempted from this initial contribution.

(2) Where required to balance the budget, an exceptional contribution shall be made to the Organization by member States and possibly also by associated States. That contribution shall be entered in the budget of the Organization and distributed equally among the member States and the associated States where applicable.
TITLE III ORGANS OF THE ORGANIZATION

Article 27 Organs of the Organization
Under this Agreement, the Organization shall have the following organs at its disposal for the conduct of its action:
- the Administrative Council;
- the High Commission of Appeal;
- the Directorate General.
Section I Administrative Council

Article 28 Membership

(1) The Administrative Council of the Organization shall be composed of representatives of the member States on the basis of one representative per State.

(2) Any member State may, where necessary, entrust its representation on the Council to the representative of another Member State. No member of the Council may represent more than two States.

(3) Associated States shall not be members of the Administrative Council.

Article 29 Functions and Powers of the Administrative Council

The Administrative Council is the highest authority of the Organization. In addition to performing the functions arising from other provisions of this Agreement, it shall determine the general policy of the Organization and regulate and control the latter’s activities, and in particular shall

(a) draw up the regulations necessary for the application of this Agreement and its Annexes;
(b) establish the financial regulations and the regulations relating to the fees and to the High Commission of Appeal, the general staff regulations and the regulations on professional representatives;
(c) supervise the implementation of the regulations referred to in (a) and (b) above;
(d) approve the program and annually vote the budget and, where necessary, any amended or additional budgets, and control their implementation;
(e) examine and approve the Organization’s annual accounts and inventory;
(f) approve the annual report on the activities of the Organization;
(g) appoint the holders of unclassified posts and designate the auditor of the Organization;
(h) rule on applications for admission as members or as associated States of the Organization;
(i) set the amount of any contribution to be made by member States or by associated States;
(j) decide where necessary on the creation of ad hoc committees on
specific issues;
(k) determine the working language or languages of the Organization.

**Article 30 Special Functions**
In addition to the functions provided for in Article 29 of this Agreement and, where appropriate, according to the provisions of Article 28 above, the members of the Administrative Council representing States party to this Agreement and to the Patent Cooperation Treaty, the Trademark Registration Treaty, the Hague Agreement Concerning the International Deposit of Industrial Designs, the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, the International Convention for the Protection of New Varieties of Plants or the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure shall, where necessary, draw up the appropriate regulations deriving from the implementation of the said six Treaties or Agreements with a view to their application on their respective national territories.

**Article 31 Sessions of the Administrative Council**
(1) The Administrative Council shall meet in one annual ordinary session.

(2) Extraordinary sessions may be convened where necessary by the Chairman at the request of one-third of the membership, or at the request of the Director General.

**Article 32 Decisions of the Administrative Council**
(1) For any decision of the Administrative Council, the representative of each member State shall have one vote.

(2) Subject to the provisions of Article 22 above, decisions of the Administrative Council shall be taken by a simple majority of members present or represented.

(3) Subject to the provisions of Article 22(2) above, in the event of equally divided votes, the Chairman shall have a casting vote.
Section II High Commission of Appeal

Article 33 Name, Functions, Composition
(1) The High Commission of Appeal shall be composed of three members selected by the drawing of lots from a list of representatives designated by the member States, each State having designated one representative.

(2) The High Commission of Appeal shall be responsible for ruling on appeals following
(a) rejection of applications for titles of industrial property protection;
(b) rejection of requests for the maintenance or extension of terms of protection;
(c) rejection of requests for reinstatement;
(d) decisions on oppositions.

(3) The sessions of the High Commission of Appeal and the appeal procedure before it shall be governed by rules adopted by the Administrative Council.
Section III Directorate General

Article 34 Functions of the Directorate General
The Directorate General shall be placed under the authority of a Director General and responsible for the executive work of the Organization. It shall take care of the day-to-day management and continuity thereof. It shall implement the instructions of the Administrative Council and carry out the tasks deriving from the provisions of this Agreement and its Annexes, and shall report to the Administrative Council.

Article 35 Director General
(1) The Director General shall be appointed for a five-year term which may be renewed once.

(2) The Director General is the highest official of the Organization.
(a) He shall represent the Organization in all acts governed by civil law.
(b) He shall be answerable for the management of the Organization to the Administrative Council, to which he shall report and with whose instructions he shall comply in matters concerning the internal and external affairs of the Organization.

(3) The Director General shall produce drafts for the budget, program and balance sheet and also periodical activity reports which he shall convey to the member States.

(4) The Director General shall take part, without the right to vote, in all sessions of the Administrative Council. He shall be secretary of those sessions ex officio.

(5) The Director General shall recruit, appoint, and dismiss or otherwise terminate the appointments of the staff of the Organization, with the exception of unclassified staff, in accordance with conditions laid down in the general staff regulations.
TITLE IV FINANCIAL RESOURCES OF THE ORGANIZATION

Article 36 Resources
(1) The resources of the Organization shall consist of
(a) the proceeds from the fees provided for in the regulations of
the Organization and in the laws of member States;
(b) the proceeds from remuneration for services rendered;
(c) any other receipts, notably revenue from property owned by the
Organization;
(d) donations and bequests approved by the Administrative Council.

(2) Where the balancing of the budget dictates, an exceptional
contribution shall be made to the Organization by the member States
and possibly also by associated States. That contribution shall be
recorded in the budget of the Organization and shared equally among
the member States and, where applicable, the associated States.

Article 37 Income and Fees
The Administrative Council shall lay down the fees and the income
necessary for the running of the Organization and shall fix the
amounts and methods of payment thereof.

Article 38 Budgetary Surpluses
(1) On a decision by the Administrative Council, the Organization
shall, where appropriate, pay to each member State the share of any
budgetary surplus accruing to it, after deduction, where necessary,
of its special contribution.

(2) Budgetary surpluses shall be fixed after provision has been made
for reserve funds and special funds established by the financial
regulations.

(3) Surpluses shall be shared equally among the member States.
Title V Miscellaneous, Transitional and Final Provisions

Article 39 Legal Personality, Privileges and Immunities of the Organization

(1) The Organization shall have legal personality. In each of the member States, it shall enjoy the broadest legal capacity accorded to legal entities by national legislation.

(2) The immunities and privileges generally accorded to international organizations shall be accorded to the Organization on the territories of the member States in order to facilitate the conduct of its action. In particular, the member States grant the Organization the benefit of the following privileges and immunities:

(a) its officials, wherever they may be, shall enjoy immunity from prosecution except in so far as the Organization expressly waives it, either in a specific procedure or by contract. Officials of the Organization means the staff permanently working for it, experts for the duration of their assignments and the representatives of member States and their substitutes for the duration of the sessions of the Administrative Council;

(b) the property and assets of the Organization shall be exempt from search, requisitioning, confiscation, expropriation, sequestration or any other form of seizure ordered by the executive, legislative or judicial authorities of member States;

(c) the Organization may hold funds in local currency and open bank accounts in any currency, transfer its funds or currency and convert all currencies held by it into any other currency in accordance with the rules applicable thereto;

(d) the Organization, its assets, property and income and also its operations and transactions shall be exempt from all taxes, charges and customs duties in accordance with the headquarters agreement in the host State and the privileges accorded to international organizations in the other member States;

(e) the premises of the Organization shall be inviolable, and its property and assets unattachable;

(f) the archives of the Organization shall be inviolable subject to the rights of investigation and communication conferred on the judicial authorities;

(g) no import or export restriction may be imposed on it with respect to materials intended for the official and exclusive use of the Organization’s services. Those materials may not be disposed of
for local consumption otherwise than in accordance with provisions in force.

**Article 40 Headquarters of the Organization**
The headquarters of the Organization shall be at Yaoundé (Republic of Cameroon). The Organization shall be placed under the protection of the Government of the Republic of Cameroon.

**Article 41 Duration of the Organization**
The Organization shall be of unlimited duration.

**Article 42 Signature and Ratification**
Any State party to the Bangui Agreement of March 2, 1977, shall sign and ratify this Act and the instruments of ratification shall be deposited with the Director General of the Organization.

**Article 43 Entry into Force and Effects**
This Act of the Bangui Agreement shall enter into force two months after the deposit of instruments of ratification by at least two-thirds of the States party to the Bangui Agreement of March 2, 1977. The date of entry into force of the Annexes to this Act of the Agreement shall be determined by decision of the Administrative Council.

(1) The Director General of the Organization shall notify signatory or acceding States of
(a) the deposit of instruments of ratification;
(b) the deposit of instruments of accession, and of the dates on which those accessions come into effect;
(c) the date on which this Act of the Agreement enters into force by virtue of the first paragraph of this Article;
(d) denunciations as referred to in Article 48, and the date on which they come into effect.

**Article 44 Transitional Provisions**
(1) After the date of entry into force of this Act of the Bangui Agreement, no country may accede to previous Acts of the said Agreement.

(2) This Act shall replace previous Acts of the Bangui Agreement in the relations between States party to it in so far as it is applicable.
(3) States party to earlier Acts of the Bangui Agreement shall take the necessary steps to become party to this Agreement within a period of two years from February 24, 1999.

(4) Applications for titles of protection filed prior to the entry into force of this Act of the Agreement shall remain subject to the provisions applicable to them on their filing date. However, the exercise of the rights deriving from the titles of protection granted as a result of those applications shall be subject to the provisions of the Annexes to this Agreement as from the date of entry into force of the said Agreement, subject to acquired rights, which shall remain reserved.

Article 45 Titles Granted in a State Prior to its Accession
(1) Titles in force in a State prior to its accession to this Agreement shall continue to have effect in that State in accordance with the legislation in force when they were applied for.

(2) The owners of those titles who wish to extend the protection under them to the whole of the territory of the Organization prior to their expiry shall file a request for extension with the Organization according to the procedure laid down in the Implementing Regulations.

Article 46 Titles in Force within OAPI Prior to the Accession of a State
The owners of titles in force within the Organization prior to the accession of a State who wish to extend protection to that State shall file a request for such extension with the Organization according to the procedure laid down in the Implementing Regulations.

Article 47 Revision
This Agreement may be revised from time to time, notably with a view to introducing amendments intended to improve the services rendered by the Organization, on the initiative of and according to the procedure laid down by the Administrative Council.

Article 48 Denunciation
(1) Any State party to this Agreement may denounce it by written notification addressed to the Director General of the Organization.
(2) The denunciation shall take effect on December 31 of the second year following that in which the Director General of the Organization received the notification.

(3) Industrial property titles in force in the State concerned shall be governed by national legislation after the denunciation.

In witness whereof, the undersigned Plenipotentiaries, having presented their full powers, recognized as being in good and due form, have signed this Agreement. Done at Bangui on February 24, 1999, in a single copy in French which shall be deposited with the Director General of the Organization. The latter shall send a certified true copy by diplomatic channels to the Government of each signatory or acceding State.
ANNEX I PATENTS

TITLE I GENERAL PROVISIONS

Article 1 Definitions
For the purposes of this Annex,
“INVENTION” MEANS AN IDEA THAT PERMITS A SPECIFIC PROBLEM IN THE FIELD OF TECHNOLOGY TO BE SOLVED IN PRACTICE.
“Patent” means the title granted for the protection of an invention.

Article 2 Patentable Invention
(1) An invention that is new, involves an inventive step and is industrially applicable may be the subject of an invention patent (hereinafter called “patent”).

(2) The invention may consist of or relate to a product or a process or to a use thereof.

Article 3 Novelty
(1) An invention shall be new if it has not been anticipated by prior art.

(2) Prior art shall consist of everything made available to the public, in any place and by any means or method, before the filing date either of the patent application or of a patent application filed abroad the priority of which has been validly claimed.

(3) The novelty of an invention shall not be denied if, during the 12 months preceding the date specified in paragraph (2) above, the invention has been the subject of a disclosure resulting from
(a) an obvious violation committed against the applicant or his predecessor in title;
(b) the fact that the applicant or his predecessor in title has displayed it at an official or officially recognized international exhibition.

Article 4 Inventive Step
An invention shall be regarded as resulting from an inventive step if, having regard to the prior art, it would not have been obvious to a person having ordinary knowledge and skill in the art on the filing date of the patent application or, if priority has been
Article 5 Industrial Applicability
An invention shall be considered industrially applicable if it can be made or used in any kind of industry. The term “industry” shall be understood in its broadest sense; in particular it shall cover handicraft, agriculture, fishery and services.

Article 6 Non-Patentable Subject Matter
Patents shall not be granted for the following:
(a) inventions the exploitation of which is contrary to public policy or morality, provided that the exploitation of the invention shall not be considered contrary to public policy or morality merely because it is prohibited by law or regulation;
(b) discoveries, scientific theories and mathematical methods;
(c) inventions having as their subject matter plant varieties, animal species and essentially biological processes for the breeding of plants or animals other than microbiological processes and the products of such processes;
(d) schemes, rules or methods for doing business, performing purely mental acts or playing games;
(e) methods for the treatment of the human or animal body by surgery or therapy, including diagnostic methods;
(f) mere presentations of information;
(g) computer programs;
(h) works of an exclusively ornamental nature;
(i) literary, architectural and artistic works or any other aesthetic creation.

Article 7 Rights Conferred by the Patent
(1) Subject to the conditions and within the limits set by this Annex, the patent shall confer on its owner the exclusive right to work the patented invention.

(2) Subject to the conditions and within the limits set by this Annex, the owner of the patent shall have the right to prohibit any person from working the patented invention.

(3) For the purposes of this Annex, the “working” of a patented invention means one or other of the following acts:
(a) where the patent has been granted for a product:
(i) manufacturing, importing, offering for sale, selling and using the product,
(ii) holding the product for the purposes of offering it for sale, selling it or using it;
(b) where the patent has been granted for a process:
(i) using the process,
(ii) engaging in the acts mentioned in subparagraph (a) above in relation to a product resulting directly from the use of the process.

(4) The owner also has the right to assign the patent, transfer it by succession and enter into license contracts.

(5) In addition to all other rights, remedies or actions available to him, the owner of the patent has the right to institute legal proceedings before the court of the place of the infringement against any person who commits an infringement of the patent by performing, without his consent, one of the acts mentioned in paragraph (3), or who performs acts that make it probable that an infringement will be committed.

Article 8 Limitation of the Rights Conferred by the Patent
(1) The rights deriving from the patent shall not extend
(a) to acts in relation to subject matter brought on to the market on the territory of a member State by the owner of the patent or with his consent;
(b) to the use of objects on board foreign aircraft, land vehicles or ships that temporarily or accidentally enter the airspace, territory or waters of a member State;
(c) to acts in relation to a patented invention that are carried out for experimental purposes in the course of scientific and technical research;
(d) to acts performed by any person who in good faith on the filing date, or where priority is claimed, on the priority date of the application on the basis of which the patent is granted on the territory of a member State, was using the invention or making effective and genuine preparations for such use, in so far as those acts are not different in nature or purpose from the actual or planned earlier use.

(2) The right of the user referred to in paragraph (1)(d) may not be transferred or handed on otherwise than with the business or company
or the part thereof in which the use or the preparations for use were made.

**Article 9 Term of Protection**
The patent shall expire at the end of the 20th calendar year following the filing date of the application, subject to the provisions of Article 40.

**Article 10 Right to the Patent**
(1) The right to the patent shall belong to the inventor; the applicant shall be deemed to be the owner of the right.

(2) Where two or more persons have made an invention jointly, the right to the patent shall belong to them jointly.

(3) If, and to the extent that, two or more persons have made the same invention independently of each other, the right to the patent shall belong to the one who filed the application bearing the earliest filing date or, where priority is claimed, the earliest validly claimed priority date, provided that the said application is not withdrawn, abandoned or rejected.

(4) The right to the patent may be assigned or transferred by succession.

**Article 11 Right to the Patent: Employee Inventions**
(1) Subject to the legal provisions governing contracts for performing a certain work and employment contracts, and in the absence of contractual provisions to the contrary, the right to a patent for an invention made under such a contract shall belong to the person who commissioned the work or to the employer.

(2) The same provision shall apply where an employment contract does not require the employee to exercise any inventive activity, but where the employee has made the invention using data or means available to him on account of his employment.

(3) In the circumstances provided for in paragraph (2) above, the employee who has made the invention shall have a right to remuneration reflecting the importance of the patented invention, which remuneration shall be fixed by the court in the absence of
agreement between the parties. In the circumstances provided for in paragraph (1) above, the said employee shall have a similar right if the invention is of very exceptional importance.

(4) The provisions of this Article shall likewise be applicable to employees of the State, public associations and any other corporate entity under public law in the absence of specific provisions to the contrary.

(5) Where the employer expressly renounces his right to the patent, that right shall belong to the inventor.

(6) The provisions of paragraph (3) above are a matter of public policy.

Article 12 Conversion of a Patent Application into a Utility Model
Application

Any patent application that fulfills the conditions specified in Annex II concerning utility models may be converted into an application for a utility model; in such cases the patent application shall be deemed to have been withdrawn and the Organization shall enter a “withdrawn” notice in the Register of Patents.

Article 13 Right of Foreigners to Patents

Foreigners may obtain patents on the conditions specified in this Annex.
Section I Applications for Patents

Article 14 Filing of the Application

(1) Any person wishing to obtain a patent for an invention shall file with the Organization or with the Ministry responsible for industrial property, or send to it by registered mail with a request for acknowledgement of receipt,

(a) his application to the Director General of the Organization in a sufficient number of copies;

(b) a document proving payment to the Organization of the filing and publication fees;

(c) an unstamped, private power of attorney if the applicant is represented by an agent;

(d) a sealed package containing in duplicate

(i) a specification of the invention for which the application has been made, set out clearly and completely so that a person having ordinary knowledge and skill in the art could carry it out,

(ii) the drawings necessary or useful for the understanding of the invention,

(iii) the claim or claims defining the scope of the protection sought, which shall not go beyond the contents of the specification referred to in subparagraph (i) above,

(iv) a descriptive abstract summarizing the contents of the specification, the claim or claims referred to in subparagraph (iii) above and any drawings relevant to the abstract.

(2) Where the invention involves a microorganism or the use of a microorganism, a receipt attesting the deposit of the microorganism, issued by a depositary institution or an international depositary authority specified in the Implementing Regulations, shall in addition be filed.

(3) The above documents shall be in one of the working languages of the Organization.

Article 15 Unity of Invention

The application shall be restricted to a single principal subject, with the details that constitute it and the uses specified. It shall
contain no restrictions, conditions or reservations. It shall have a
title that describes in a precise and succinct manner the purpose of
the invention.

Article 16 Claim of Priority
(1) Any person wishing to avail himself of the priority of an
earlier application shall be required to attach to his application
for a patent or to send to the Organization at the latest six months
following the filing date of his application
(a) a written declaration stating the date and number of the earlier
application, the country in which it was filed and the name of the
applicant;
(b) a certified true copy of the said earlier application;
(c) if he is not the person who filed the earlier application, a
written authorization from the applicant or his successors in title
authorizing him to avail himself of the priority in question.

(2) The applicant who, in respect of a single application, seeks to
avail himself of two or more rights of priority shall comply with
the provisions mentioned above for each of them;
he shall also pay a fee for each priority right claimed and shall
produce evidence of payment of the fee within the six-month period
mentioned in paragraph (1) above.

(3) Failure to present any one of the documents mentioned above
within the time limit shall automatically entail, for the
application under consideration, loss of the benefit of the priority
right claimed.

(4) Any document that reaches the Organization more than six months
after the filing of the patent application shall be declared
inadmissible.

Article 17 Unacceptability Due to Non-Payment
No filing shall be acceptable if the application is not accompanied
by a document attesting payment of the application and publication
fees.

Article 18 Filing Date
(1) The Organization shall grant as the filing date the date of
receipt of the application, written in one of its working languages,
by the Ministry responsible for industrial property or by the Organization, provided that, at the time of receipt, the application contains
(a) an express or implicit indication that the grant of a patent is requested;
(b) information whereby the identity of the applicant may be established;
(c) a part which, at first sight, purports to be the description of an invention and one or more claims;
(d) proof of payment of the prescribed fees.

(2) The filing date of an international application shall be that assigned to it by the receiving Office.
Section II Grant of Patents

Article 19 Transmittal of the Patent Application to OAPI
(1) Immediately after the statement of filing has been made out on the prescribed form and within five working days of the filing date, the Ministry responsible for industrial property shall transmit to the Organization, as provided in Article 11, the package sent by the applicant containing, in duplicate, the description of the invention, the claim or claims defining the scope of the protection sought, any drawings that may be necessary for the understanding of the invention and the descriptive abstract summarizing the description, enclosing with them one original and one copy of the statement, the documents attesting payment of the fees and the power of attorney where applicable.

(2) The Organization shall open the package as defined in the foregoing paragraph; it shall enter the application in the Register of Patent Applications, undertake the examination thereof and grant the patent where appropriate, as far as possible in the order of receipt of applications.

Article 20 Examination of Applications
(1) Any application for a patent shall undergo examination to ensure that
(a) the invention mentioned in the application is not excluded from the protection afforded by the patent under the provisions of Article 6 of this Annex;
(b) the claim or claims conform to the provisions of Article 14(1)(d)(iii) of this Annex;
(c) the provisions of Article 15 of this Annex have been respected.

(2) Subject to the provisions of paragraph (3) below, a search shall also be conducted to ensure that
(a) at the time of the filing of the patent application, an application for a patent filed earlier, or benefiting from a validly claimed earlier priority and concerning the same invention, was not in the process of being granted;
(b) the invention
(i) is new,
(ii) involves an inventive step,
(iii) is industrially applicable.
(3) The Administrative Council shall decide whether, and to what extent, the provisions of paragraph (2)(a) and (b) above shall be applied; in particular, it may decide whether all or some of the said provisions are applicable to one or several fields of technology covered by the inventions; it shall determine such fields by reference to the International Patent Classification.

(4) Where the invention relates to the use of a microorganism, the Organization shall reserve the right to require the applicant to deposit a sample of the microorganism as issued by the depositary institution or the international depositary authority.

(5) For international applications under the Patent Cooperation Treaty, the Organization may avail itself of the provisions of Articles 20 and 36 of the said Treaty, which relate to the international search report and the international preliminary examination report, respectively.

**Article 21 Amendment of the Claims, the Description, the Drawings and the Abstract**

(1) The applicant may amend the claims, the description, the drawings and the abstract prior to grant.

(2) The amendment shall not go beyond the disclosure of the invention appearing in the application as filed.

**Article 22 Grant**

(1) Where the Organization finds that all the conditions for the grant of the patent have been met and that a search report under Article 20, where applicable, has been drawn up, it shall notify the decision and grant the patent applied for. In all cases, however, the grant of patents shall be at the applicant’s own risk and without any guarantee either as to the reality, novelty or merits of the invention or as to the truth or accuracy of the description.

(2) The grant of the patent shall take place on a decision by the Director General of the Organization or on a decision by a staff member of the Organization duly authorized to that end by the Director General.

(3) Patents based on international applications under the Patent
Cooperation Treaty shall be granted in the same manner as provided for in the foregoing paragraph, but with reference to the international publication provided for in the said Treaty.

(4) Any application for a patent or for a certificate of addition may be withdrawn prior to grant by the person who filed it. The documents shall be returned to him only at his request.

Article 23 Deferment of Grant
(1) Notwithstanding the provisions of paragraph (1) of the foregoing Article, the applicant may ask for grant to take place one year after the filing date of the application if the said application contains an express request to that effect. A person who has requested the benefit of this provision may renounce it at any time within the said period of one year.

(2) The same shall apply to any application that is not accompanied by a copy of the documents provided for in paragraphs (1)(d) and (2) of Article 14.

(3) The benefit of the foregoing provision may not be claimed by persons who have already availed themselves of the priority periods granted by international treaties, and in particular by Article 4 of the Paris Convention for the Protection of Industrial Property.

Article 24 Conditions Governing Rejection
(1) Any application concerning an invention that is not patentable under Article 6 or does not conform to the provisions of Article 20 shall be rejected.

(2) The same shall apply to any application that is not accompanied by a copy of each of the documents prescribed in Article 14(d).

(3) An application that does not fulfill the provisions of Article 15 may, within a period of six months from the date of notification that the application cannot be accepted as filed because it does not have one principal subject, be divided into a number of applications benefiting from the date of the initial application.

(4) Any application for which the other requirements of Article 14, except for its subparagraph (b), and those of Article 15 have not
been fulfilled is defective. The defect shall be notified to the applicant or his agent, who shall be invited to correct the documents within a period of three months from the date of the notification. That period may be extended by 30 days, in cases of justifiable need, at the request of the applicant or his agent. The application so corrected within the said period shall retain the date of the initial application.

(5) In the event of the corrected documents not being provided within the prescribed period, the patent application shall be rejected.

(6) No application may be rejected under paragraphs (1), (2), (3) or (4) of this Article without the applicant or his agent having first been given the opportunity to correct the said application to the extent and according to the procedure prescribed.

**Article 25 Recording of Acts in the Special Register of Patents**

Subject to the provisions of Articles 33 and 35 below, the Administrative Council shall draw up regulations concerning the acts to be recorded in the Special Register of Patents, on pain of their not being enforceable against third parties.
Section III Certificates of Addition

Article 26 Right to Certificates of Addition
(1) The patentee or entitled persons shall, for the entire duration of the patent, have the right to make changes, improvements or additions to the invention, complying, for the filing of the application, with the formalities laid down in Articles 14, 15, 16 and 17 of this Annex.

(2) Such changes, improvements or additions shall be recorded in certificates granted in the same form as the principal patent which, as from the dates of application and grant respectively, shall have the same effects as the said principal patent.

(3) Certificates of addition taken out by one of the entitled persons shall benefit all the others.

Article 27 Duration
Certificates of addition shall terminate with the principal patent. However, invalidation of the principal patent shall not invalidate as of right the corresponding certificate or certificates of addition, and, even where absolute invalidity has been declared under the provisions of Article 43(3), the certificate or certificates of addition may survive the principal patent until the normal term of the latter expires, subject to continued payment of the annual fees that would have been payable had the said patent not been invalidated.

Article 28 Conversion of an Application for a Certificate of Addition into a Patent Application
Provided that a certificate of addition has not been granted, the applicant may effect the conversion of his application for a certificate of addition into a patent application, for which the filing date shall be the date of application for the certificate. Any patent eventually granted shall then give rise to payment of the same annual fees as a patent filed on the latter date.
Section IV Communication and Publication in Relation to Patents and Certificates of Addition

Article 29 Formalities for Conversion of an Application for a Certificate of Addition into a Patent Application
Any patentee who wishes to obtain a principal patent for a change, improvement or addition rather than a certificate of addition expiring with the initial patent shall comply with the formalities laid down in Articles 14 and 16.

Article 30 Independence of the Right to Exploit Patents Relating to the Same Subject Matter
Any person who has obtained a patent for an invention related to the subject matter of another patent shall have no right to exploit the invention already patented and, conversely, the holder of the earlier patent may not exploit the invention that is the subject of the new patent.

Article 31 Communication of Descriptions and Drawings of Patents and Certificates of Addition
(1) The descriptions and drawings of granted patents and certificates of addition shall be kept by the Organization which, after publication of the grant of patents or certificates of addition as provided in Article 33 below, shall communicate them on request.

(2) After the same date, any person may obtain an official copy of the said descriptions and drawings.

(3) The provisions of the preceding two paragraphs shall apply to official copies furnished by applicants seeking to avail themselves of the priority of an earlier filing and to the documents authorizing certain such applicants to claim that priority.

(4) The applicant for a patent or for a certificate of addition wishing to avail himself abroad of the priority of his filing before the patent or certificate of addition is granted may obtain an official copy of his application.

Article 32 Publication of Patents and Certificates of Addition
(1) The Organization shall publish the following details for each
(2) The Administrative Council shall establish and determine the conditions of publication of the description of the invention, the drawings if any, the claims and the abstract.
Section V Transfer and Assignment of Patents and Contractual Licenses

Article 33 Transfer and Assignment of Rights
(1) The rights subsisting in an application for a patent or in a patent shall be transferable in whole or in part.

(2) Acts involving transfer of ownership, the licensing of the right of exploitation or the assignment of that right, or a pledge or cancellation of a pledge, in respect of an application for a patent or a patent shall, on pain of invalidity, be evidenced in writing.

Article 34 Enforceability Against Third Parties
(1) The acts referred to in the foregoing Article shall not be enforceable against third parties unless they are recorded in the Special Register of Patents kept by the Organization. A record of such acts shall be kept by the Organization.

(2) Subject to the conditions established by regulation, the Organization shall furnish to any person who so requests a copy of the entries in the Special Register of Patents, and also a record of the entries concerning patents that are the subject of a pledge, or a certificate attesting the absence of any such entries.

Article 35 Exploitation of the Patent and its Certificates of Addition as of Right
Those persons who have obtained from a patentee or from entitled persons the right to exploit an invention shall benefit as of right from certificates of addition subsequently granted to the patentee or to the entitled persons. Conversely, the patentee or entitled persons shall benefit from certificates of addition that may subsequently be granted to persons having obtained the right to exploit the invention.

Article 36 License Contract
(1) The owner of a patent may, by contract, grant to a person, whether natural person or legal entity, a license enabling him to exploit the patented invention.

(2) The duration of the license may not be longer than that of the patent.
(3) The license contract shall be drawn up in writing and signed by the parties.

(4) The license contract shall be entered in the Special Register of Patents. It shall not be binding on third parties until it is entered in the said Register and published in the form specified in the Implementing Regulations relating to this Annex.

(5) The license shall be cancelled from the Register at the request of the owner of the patent or the licensee on presentation of proof of the expiry or termination of the license contract.

(6) In the absence of provisions to the contrary in the license contract, the grant of a license shall not preclude the licensor from either granting licenses to other persons, subject to notifying the licensee, or exploiting the patented invention himself.

(7) The grant of an exclusive license shall preclude the licensor from granting licenses to other persons and, in the absence of provisions to the contrary in the license contract, from exploiting the patented invention himself.

**Article 37 Invalid Clauses**

(1) Clauses in license contracts or relating to such contracts shall be invalid in so far as they impose on the licensee, in the industrial or commercial sphere, restrictions not deriving from the rights conferred by the patent or not necessary for the upholding of such rights.

(2) The following shall not be considered restrictions within the meaning of paragraph (1) above:
(i) limitations relating to the extent, the scope or the duration of exploitation of the patented invention;
(ii) the obligation on the licensee to abstain from any act liable to harm the validity of the patent.

(3) In the absence of provisions to the contrary in the license contract, the license shall not be assignable to third parties and the licensee shall not be authorized to grant sublicenses.
Article 38 Recognition of Invalid Clauses

Recognition of the invalid clauses referred to in Article 37 above shall be done by the civil court at the request of any interested party.
TITLE III INVALIDITY, FORFEITURE AND ACTIONS RELATING THERETO

Section I Invalidity and Forfeiture

Article 39 Invalidity
(1) Patents granted in the following cases shall be declared invalid:
   (a) if the invention is not new, does not involve an inventive step or is not industrially applicable;
   (b) if the invention is not patentable within the meaning of Article 6, without prejudice to the penalties that might be incurred for the manufacture or marketing of prohibited articles;
   (c) if the specification attached to the patent does not conform to the provisions of Article 14(d)(i) above, or if it does not state in a complete and honest manner the true methods of the inventor.

(2) Certificates in respect of changes, improvements or additions that are not connected with the principal patent, as provided for in this Annex, shall likewise be declared invalid.

(3) Invalidity may relate to all or only some of the claims.

Article 40 Forfeiture
(1) Any patentee who has not paid his annual fees on the anniversary date of the filing of his patent application shall forfeit all his rights.

(2) The patentee concerned shall however be allowed a six-month period of grace within which he may still validly pay the annual fees. In that case, he shall also pay an additional fee.

(3) Payments made to complement annual or additional fees during the six-month period mentioned above shall be considered valid.

(4) Payments made as annual or additional fees payable for a patent application resulting either from the conversion of an application for a certificate of addition under Article 28 above or from the division of a patent application under Article 24(3) above shall also be considered valid provided that the payments are made within a period of six months from the date of the application for conversion or the filing date of the applications resulting from the
Article 41 Restoration

(1) Without prejudice to the provisions of Articles 39 and 40 above, where a patent has not been renewed owing to circumstances beyond the control of the owner thereof, the owner or entitled persons may apply for its restoration, against payment of the requisite annual fee and of a surcharge the amount of which shall be fixed by regulation, within a period of six months from the date on which the said circumstances ceased to exist, and at the latest within a period of two years from the date on which renewal was due.

(2) The application for restoration of the patent, together with documents proving payment of the fee and surcharge mentioned in the foregoing paragraph, shall be sent to the Organization and shall contain a statement of the grounds on which the owner or the entitled persons consider the restoration justified.

(3) The Organization shall examine the grounds referred to above and shall either restore the patent or reject the application if it does not consider the grounds valid.

(4) Restoration shall not entail prolongation of the maximum duration of the patent. Third parties who started to work the invention after the expiry of the patent shall have the right to continue such working.

(5) Restoration of the patent shall likewise cause any certificates of addition related to it to be restored.

(6) Restored patents shall be published by the Organization in the form prescribed by the Implementing Regulations relating to this Annex.

(7) Paragraphs (1) to (6) shall be applicable where the patent application has not been filed within the time limits set by international treaties.

(8) Appeals from decisions of the Organization concerning restoration shall lie to the High Commission of Appeal within a period of thirty days from the date of receipt of notice of the
decisions.

**Article 42 Appropriation**
Any person who, by means of signs, notices, prospectuses, posters, marks or stamps, assumes the status of patentee without holding a patent granted in accordance with this Agreement and the Implementing Regulations under it or after an earlier patent has expired shall be punished with a fine of 1,000,000 to 3,000,000 CFA francs. In the event of recidivism, the fine may be doubled.
Section II Actions Seeking Invalidity or Forfeiture

Article 43 Initiation of the Invalidity or Forfeiture Action
(1) Actions seeking invalidity or forfeiture may be brought by any person having an interest therein.

(2) In any action seeking the invalidity or forfeiture of a patent, the Office of the Public Prosecutor may be an intervening party and make submissions seeking a declaration of absolute invalidity or forfeiture of the patent.

(3) It may even enter directly a principal suit seeking a declaration of invalidity in the cases provided for in Article 39(1)(b).

(4) In the cases provided for in the foregoing paragraph, all holders of rights in the patent whose acts have been entered in the Special Register of Patents of the Organization under Article 34 shall be party to the proceedings.

Article 44 Competent Jurisdiction
(1) The actions referred to in Article 43 above and all disputes relating to patent ownership shall be brought before the civil courts.

(2) If the action is simultaneously brought against the owner of the patent and one or more limited licensees, it shall be brought before the court sitting in the established or elected domicile of the said owner.

(3) The matter shall be examined and judged in the manner prescribed for summary proceedings. If necessary, it shall be communicated to the Office of the Public Prosecutor.

Article 45 Recording of the Judicial Decision on Invalidity or Forfeiture
Where the absolute invalidity or forfeiture of a patent has been pronounced by a court decision that has become res judicata, the competent court shall inform the Organization thereof, and the invalidity or forfeiture pronounced on the territory of a member State shall be entered in the Special Register of Patents and
published in the form specified in Article 32 above for granted patents.
TITLE IV NON-VOLUNTARY LICENSES

Article 46 Non-Voluntary License for Non-Working
(1) At the request of any person made after the expiry of a period of four years from the filing date of the patent application or three years from the date of grant of the patent, whichever period expires last, a non-voluntary license may be granted where one or more of the following conditions are fulfilled:
(a) the patented invention is not being worked on the territory of a member State at the time the request is made;
(b) the working of the patented invention on such territory does not meet the demand for the protected product on reasonable terms;
(c) on account of the refusal of the owner of the patent to grant licenses on reasonable commercial terms and procedures, the establishment or development of industrial or commercial activities on such territory is unfairly and substantially prejudiced.

(2) Notwithstanding the provisions of paragraph (1) above, a non-voluntary license may not be granted if the owner of the patent provides legitimate reasons for the non-working of the invention.

Article 47 Non-Voluntary License for a Dependent Patent
Where a patented invention cannot be worked without infringing the rights under an earlier patent whose owner refuses to authorize its use on reasonable commercial terms and procedures, the owner of the later patent may obtain a non-voluntary license for such use from the court on the same terms as those that apply to the non-voluntary licenses granted under Article 46 and on the following additional conditions:
(a) the invention claimed in the later patent must represent substantial technical progress, of considerable economic interest, in relation to the invention claimed in the earlier patent;
(b) the owner of the earlier patent has the right to a reciprocal license on reasonable terms for the use of the invention claimed in the later patent;
(c) the use authorized in relation to the earlier patent shall be untransferable except where the later patent is also transferred.

Article 48 Request for the Grant of a Non-Voluntary License
(1) The request for the grant of a non-voluntary license shall be made to the civil court of the domicile of the patentee or, if the
latter is domiciled abroad, to the civil court of either his elected domicile or the place in which he has named an agent for the purposes of filing. Only requests made by persons domiciled on the territory of a member State shall be considered. The owner of the patent or his agent shall be informed thereof without delay.

(2) The request shall contain
(a) the name and address of the requester;
(b) the title of the patented invention and the number of the patent in respect of which a non-voluntary license is requested;
(c) evidence that the working of the patented invention on the above-mentioned territory does not meet demand for the protected product on reasonable terms;
(d) in the case of a non-voluntary license requested under Article 45 above, a statement by the requester in which he undertakes to work the patented invention on the territory of one of the member States in such a way as to meet the needs of the market.

(3) The request shall be accompanied
(a) by proof that the requester has previously approached the owner of the patent, by registered letter, requesting a contractual license, but has been unable to obtain such a license from him subject to reasonable commercial terms and procedures and within a reasonable time;
(b) in the case of a non-voluntary license requested under Article 46 or 47, by proof that the requester is capable of working the patented invention.

Article 49 Grant of Non-Voluntary License

(1) The civil court shall examine whether the request for the grant of a non-voluntary license satisfies the requirements of Article 48 above. If the request does not satisfy the said specified requirements, the court shall reject it. Before rejecting the request, the court shall inform the requester of the deficiencies of his request and shall allow him to make the necessary corrections.

(2) Where the request for the grant of a non-voluntary license satisfies the requirements of Article 48 above, the civil court shall notify it to the owner of the patent concerned, and also to any licensee whose name appears in the Register of Patents, and shall invite them to submit their observations on the said request.
in writing within a period of three months. Such observations shall be communicated to the requester. The civil court shall likewise notify the request to any government authorities concerned. The civil court shall hold a hearing on the request and the observations received to which the requester, the owner of the patent, any licensee whose name appears in the Register of Patents and any government authorities concerned shall be invited.

(3) Once the procedure prescribed in paragraph (2) above has been completed, the civil court shall take a decision on the request, either granting or refusing the non-voluntary license.

(4) If the non-voluntary license is granted, the decision of the civil court shall specify
(a) the scope of the license, specifying in particular the acts referred to in Article 1(2) of this Annex to which it extends and the period for which it is granted, it being understood that a non-voluntary license granted under Article 46 or 47 above cannot extend to the act of importation;
(b) the amount of the remuneration to be paid by the licensee to the owner of the patent; in the absence of agreement between the parties, such remuneration shall be equitable, due regard being had to all the circumstances of the case. The said amount shall be subject to judicial revision.

(5) The decision of the civil court shall be in writing and shall state the grounds on which it is based. The civil court shall convey the decision to the Organization, which shall register it. The civil court shall publish the decision and shall notify it to the requester and to the owner of the patent. The Organization shall notify the decision to any licensee whose name appears in the Special Register of Patents.

Article 50 Rights and Obligations of the Holder of a Non-Voluntary License

(1) After the expiry of the time limit for appeal specified in Article 52 of this Annex, or once an appeal decision has been handed down that wholly or partly upholds the decision by which the civil court granted the non-voluntary license, the grant of the latter shall authorize the licensee to exploit the patented invention according to the terms laid down in the decision of the civil court
or in the appeal decision, and shall require him to pay the remuneration specified in the said decisions.

(2) The grant of a non-voluntary license shall not affect either license contracts in force or non-voluntary licenses in force and shall not preclude the conclusion of other license contracts or the grant of other non-voluntary licenses. The patentee may not however grant to other licensees more favorable terms than those of the non-voluntary license.

Article 51 Limitation of the Non-Voluntary License
(1) The beneficiary of the non-voluntary license may not, without the consent of the owner of the patent, grant any third party permission to perform any of the acts that he is authorized to perform under the non-voluntary license.

(2) Notwithstanding the provisions of paragraph (1) above, a non-voluntary license may be transferred together with the establishment of the beneficiary of the non-voluntary license or with the portion of his establishment that exploits the patented invention. No such transfer shall be valid without the authorization of the civil court. Before granting the authorization, the civil court shall give the owner of the patent a hearing. The civil court shall notify the authorization to the Organization, which shall register and publish it. Any transfer so authorized shall cause the new beneficiary of the non-voluntary license to accept the same obligations as those that were incumbent on the former beneficiary.

Article 52 Amendment and Withdrawal of the Non-Voluntary License
(1) At the request of the owner of the patent or the beneficiary of the non-voluntary license, the civil court may amend the decision on the grant of the non-voluntary license where new facts justify such amendment.

(2) At the request of the owner of the patent, the civil court shall withdraw the non-voluntary license
(a) if the grounds for its grant have ceased to exist;
(b) if the beneficiary exceeds the scope of the license under Article 49(4)(a) above;
(c) if the beneficiary is in arrears with the payment of the remuneration referred to in Article 49(4)(b) above.
(3) Where the non-voluntary license is withdrawn under paragraph (2)(a) above, the beneficiary of the non-voluntary license shall be allowed a reasonable period within which to cease working the invention where immediate cessation would have serious adverse consequences for him.

(4) The provisions of Articles 48 and 49 of this Annex shall apply to the amendment or withdrawal of the non-voluntary license.

Article 53 Appeals

(1) The owner of the patent, the licensee whose name appears in the Special Register or any person who has requested the grant of a non-voluntary license may, within a period of one month from the publication specified in Articles 49(5), 51(2) or 52(4) above, appeal to the competent higher jurisdiction against a decision taken under Articles 49(3), 51(2) or 52 above.

(2) The appeal referred to in paragraph (1) above contesting the grant of a non-voluntary license, the authorization to transfer a non-voluntary license or the amendment or withdrawal of a non-voluntary license shall have staying effect.

(3) The decision on appeal shall be notified to the Organization, which shall register and publish it.

Article 54 Defense of Rights Granted

(1) Any beneficiary of a contractual or non-voluntary license may, by registered letter, summon the owner of a patent to bring the necessary judicial actions for civil or criminal sanctions for any violation, mentioned by the said beneficiary, of the rights under the patent.

(2) If, within three months of the summons provided for in paragraph (1) above, the owner of the patent refuses or fails to institute the actions referred to in the said paragraph, the beneficiary of a license that has been registered may institute the actions in his own name, without prejudice to the owner’s right to intervene in the actions.
Article 55 Cessation of the Obligations of the Beneficiary of the Non-Voluntary License
Any action seeking invalidation of the patent shall be directed against the patentee. If a final legal judgment declares the patent invalid, the beneficiary of the non-voluntary license shall be released from all obligations resulting from the decision granting him the non-voluntary license.

Article 56 Ex-Officio Licenses
(1) Where certain patents are of vital interest to the economy of the country, public health or national defense, or where non-working or insufficient working of such patents seriously compromises the satisfaction of the country’s needs, they may be made subject, by an administrative enactment of the competent Minister of the member State concerned, to the non-voluntary license regime. The said enactment shall specify the beneficiary administration or organization, the conditions, term and scope of the non-voluntary license and the amount of royalties payable.

(2) In the absence of amicable agreement between the owner of the patent and the administration concerned on the said conditions, they shall be set by the civil court.

(3) Ex-officio licenses shall be subject to the same conditions as the non-voluntary licenses granted under Article 46.

Article 57 Licenses of Right
(1) Any owner of a patent not precluded by the terms of any previously registered license from granting further licenses may apply to the Organization to have, in respect of his patent, the notice “licenses of right” entered in the Register. The notice shall be entered in the Register and published by the Organization as soon as possible.

(2) The entry of such a notice in the Register shall entitle any person to obtain a license to work the said patent on terms that shall, in the absence of agreement between the parties concerned, be fixed by the civil court. It shall also cause the annual fee to be reduced.

(3) The owner of the patent may at any time apply to the
Organization for cancellation of the “licenses of right” entry. If no license is in force, or if all the licensees agree to cancellation, the Organization shall cancel the entry after payment of all the annual fees that would have been payable had the entry not been made in the Register.

(4) The provisions of Article 26(1) of this Annex shall also apply to licenses of right.

(5) The beneficiary of a license of right may neither assign it nor grant sublicenses under it.
TITLE V INFRINGEMENT, LEGAL PROCEEDINGS AND PENALTIES

Article 58 Infringement
Subject to the provisions of Articles 8 and 46 to 56, any violation of the rights of a patentee by the use of means forming the subject matter of his patent, by the receiving or sale or display for sale or by the introduction into the national territory of one of the member States of one or more objects shall constitute the offense of infringement. That offense shall be punished with a fine of 1,000,000 to 3,000,000 CFA francs, without prejudice to the right to compensation.

Article 59 Recidivism and Aggravating Circumstances
(1) In the event of recidivism, imprisonment for a term of one to six months may be imposed in addition to the fine specified in Article 58.

(2) Recidivism shall be deemed to have occurred when, within the preceding five years, the defendant has received a first conviction for one of the offenses provided for in this Annex.

(3) Imprisonment for a term of one to six months may also be imposed if the infringer is a worker or employee who has worked in the workshops or establishment of the patentee, or if the infringer, having joined a worker or employee of the patentee, has become acquainted through him with the processes described in the patent.

(4) In the latter case, the worker or employee may be prosecuted as an accomplice.

Article 60 Extenuating Circumstances
The provisions of the national legislation of member States on extenuating circumstances shall apply to the offenses provided for in this Annex.

Article 61 Condition for Initiation of Criminal Proceedings
Criminal action seeking the imposition of the above penalties may only be brought by the Office of the Public Prosecutor on a complaint by the injured party.
Article 62 Exceptional Competence of the Criminal Court
The criminal court, when dealing with an action for infringement, shall rule on the arguments put forward by the accused in his defense, such as the alleged invalidity or forfeiture of the patent or questions relating to ownership of the said patent.

Article 63 Acts Prior to Grant
Acts occurring prior to the grant of a patent shall not be considered prejudicial to the rights of the patentee and may not be invoked to justify conviction, even under civil law, with the exception however of acts subsequent to the communication to the alleged infringer of an official copy of the description of the invention attached to the patent application.

Article 64 Infringement Seizure
(1) Owners of patents may, acting in pursuance of an order from the president of the civil court within whose jurisdiction the action is to be taken, engage bailiffs or public or ministerial officials, including customs officials, if necessary with the aid of an expert, to make a detailed inventory and description, with or without seizure, of allegedly infringing objects.

(2) The order shall be made on request and on presentation of the patent.

(3) Where seizure is involved, the said order may require the complainant to furnish security, which he shall be required to provide before seizure is effected. The security shall be sufficient but not such as would discourage recourse to the procedure.

(4) Security shall always be required of foreigners seeking seizure.

(5) The person in possession of the objects described or seized shall be given a copy of the order and, where appropriate, of the document attesting the deposit of security, on pain of invalidity and damages against the bailiff or the public or ministerial official or the customs official, as the case may be.

Article 65 Time Limit for Initiating Substantive Proceedings
Should the complainant fail to take action under either civil or criminal law within a period of 10 working days from the seizure or
inventory, the said seizure or inventory shall become void as of right, without prejudice to any damages that may be claimed.

**Article 66 Burden of Proof**

For the purposes of the civil procedure for violation of the owner’s rights referred to in Article 1, if the subject matter of the patent is a process for making a product, the judicial authority shall be authorized to order the defendant to prove that the process used to make an identical product is different from the patented process in one of the following situations:

(a) the product made by the process is new;

(b) there is a strong probability of the identical product having been made by means of the process and of the owner of the patent having been unable, in spite of reasonable effort, to establish what process was actually used.

**Article 67 Other Sanctions**

(1) The confiscation or destruction of recognized infringing objects and, where necessary, that of implements or tools specially intended for their manufacture shall, even in the case of acquittal, be ordered against the infringer, the receiver, the introducer or the retailer.

(2) The objects confiscated may be handed over to the owner of the patent, without prejudice to the right to further damages and publication of the judgment, where appropriate.
TITLE VI MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

Article 68 Continued Validity of Patents Granted or Recognized Under the Bangui Agreement of March 2, 1977
Under this Article, any patent granted or recognized under the Bangui Agreement of March 2, 1977, and its Annex I shall remain in force for a period of 20 years as from its filing date.

Article 69 Acquired Rights
(1) This Annex shall apply to patent applications filed as from the date of its entry into force, subject to the rights acquired under Annex I of the Bangui Agreement of March 2, 1977.

(2) Patent applications filed prior to the date of entry into force of this Annex shall remain subject to the provisions that were applicable on the filing date of the said applications.

(3) However, the exercise of the rights deriving from patents granted under the provisions referred to in paragraph (2) above shall be subject to the provisions of this Annex as from the date of its entry into force, subject to acquired rights, which shall be maintained.

(4) Annex I of the Bangui Agreement of March 2, 1977, is repealed.
ANNEX II UTILITY MODELS

TITLE I GENERAL PROVISIONS

Article 1 Definition and Criteria
Within the meaning of this Annex, utility models protected by registration certificates granted by the Organization shall be implements of work or objects to be utilized or parts of such implements or objects in so far as they are useful for the work or employment for which they are intended on account of a new configuration, a new arrangement or a new component device, and are industrially applicable.

Article 2 Novelty
(1) The implement or object or the parts of the one or the other as specified in Article 1 above shall not be considered new if, on the date of the filing of the application for registration with the Organization, they have been described in publications or if they have been publicly used on the territory of a member State.

(2) The novelty referred to in paragraph (1) above shall not be denied if, during the twelve months preceding the date specified in paragraph (1) above, the implement or object or the parts of the one or the other have been the subject of a disclosure resulting from (a) an obvious violation committed against the applicant or his predecessor in title; or (b) the fact that the applicant or his predecessor in title has displayed them at an official or officially recognized international exhibition.

Article 3 Industrial Applicability
A utility model shall be considered industrially applicable if it can be made or used in any kind of industry. The term “industry” shall be understood in its broadest sense; in particular it shall cover handicraft, agriculture, fishery and services.

Article 4 Subject Matter Not Qualifying for Utility Model Protection
The following may not be registered as a utility model:
(1) A utility model according to Article 1 of this Annex that is contrary to public policy or morality, public health, the national economy or national defense, provided that the exploitation of the
said model shall not be considered contrary to public policy or morality merely because it is prohibited by law or regulation.

(2) No utility model may be protected under this Annex if it has already been the subject of a patent or a utility model registration based on a prior application or an application validly claiming an earlier priority.

Article 5 Rights Conferred
Subject to the conditions and within the limits set by this Annex, the owner of a registration certificate shall have the right to prohibit any person from exploiting the utility model by carrying out any of the following acts: manufacturing, offering for sale, selling and using the utility model, and importing and holding it for the purposes of offering it for sale, selling it or using it.

Article 6 Term of Protection
Subject to the provisions of Article 35 below, the term of protection conferred by the certificate of registration of a utility model shall expire at the end of the tenth year following the filing date of the application for registration.

Article 7 Right to the Certificate of Registration of the Utility Model
(1) The right to the registration of a utility model shall belong to its creator; the applicant shall be deemed to be the owner of the right.

(2) Where two or more persons have made a creation jointly, the right to its registration as a utility model shall belong to them jointly.

(3) If, and to the extent that, two or more persons have made the same creation independently of each other, the right to its registration as a utility model shall belong to the one who filed the application bearing the earliest filing date or, where priority is claimed, the earliest validly claimed priority date, provided that the said application is not withdrawn, abandoned or rejected.

(4) The right to the registration of a utility model may be assigned or transferred by succession.
Article 8 Right to the Certificate of Registration of the Utility Model. Creations by Employees

(1) Subject to the legal provisions governing contracts for performing a certain work and employment contracts, and in the absence of contractual provisions to the contrary, the right to the registration of a utility model developed in pursuance of such a contract shall belong to the person who commissioned the work or to the employer.

(2) The same provision shall apply where an employment contract does not require the employee to exercise any inventive activity, but where the employee has developed a utility model using data or means available to him on account of his employment.

(3) In the circumstances provided for in paragraph (2) above, the employee who has developed the utility model shall have a right to remuneration reflecting the importance of the utility model registered. That remuneration shall be fixed by the court in the absence of agreement between the parties.

(4) In the circumstances provided for in paragraph (1) above, the employee shall have the same right as that referred to in paragraph (3) above if the utility model is of very exceptional importance.

(5) The provisions of paragraphs (3) and (4) above are a matter of public policy.

Article 9 Limitation of the Rights Conferred by the Certificate of Registration of the Utility Model

(1) The rights deriving from the certificate of registration of the utility model shall not extend
(a) to acts in relation to subject matter brought on to the market on the territory of a member State by the owner of the utility model or with his consent;
(b) to the use of objects on board foreign aircraft, land vehicles or ships that temporarily or accidentally enter the airspace, territory or waters of a member State;
(c) to acts in relation to a registered utility model that are carried out for experimental purposes in the course of scientific and technical research;
(d) to acts performed by any person who in good faith on the filing
date of the application, or where priority is claimed on the priority date of the application on the basis of which the utility model is registered on the territory of a member State, was using the utility model or making effective and genuine preparations for such use, in so far as those acts are not different in nature or purpose from the actual or planned earlier use.

(2) The right of the user referred to in paragraph (1)(d) may not be transferred or handed on otherwise than with the business or company or the part thereof in which the use or the preparations for use were made.

**Article 10 Right of Foreigners to Certificates of Registration of Utility Models**

Foreigners may obtain certificates of registration of utility models on the conditions specified in this Annex.
TITLE II  FORMALITIES CONCERNING THE REGISTRATION OF UTILITY MODELS

Section I Applications for Registration of Utility Models

Article 11 Filing of the Application
(1) Any person wishing to secure the registration of a utility model shall file with the Organization or with the Ministry responsible for industrial property, or send to it by registered mail with a request for acknowledgement of receipt,
(a) his application to the Director General of the Organization in a sufficient number of copies;
(b) a document proving payment to the Organization of the filing and publication fees;
(c) an unstamped, private power of attorney if the applicant is represented by an agent;
(d) a sealed package containing in duplicate
   (i) a description showing by what configuration, arrangement or component device the utility model may be useful for the work or purpose for which it is intended; that description shall be set out clearly and completely so that a person having ordinary knowledge and skill in the art could produce the said model,
   (ii) the drawings and photographs necessary or useful for the understanding of the description,
   (iii) a descriptive abstract summarizing the contents of the description,
   (iv) the claim or claims defining the scope of the protection sought, which shall not go beyond the contents of the description referred to in subparagraph (i) above.

(2) The above documents shall be in one of the working languages of the Organization.

Article 12 Unity of the Utility Model
The application shall be restricted to a single principal subject, with the details that constitute it and the uses specified. It shall contain no restrictions, conditions or reservations. It shall have a title that describes in a succinct and precise manner the purpose of the invention.

Article 13 Claim of Priority
(1) Any person wishing to avail himself of the priority of an
earlier application shall be required to attach to his application for registration or to send to the Organization at the latest six months following the filing date of his application
(a) a written declaration stating the date and number of the earlier application, the country in which it was filed and the name of the applicant;
(b) a certified true copy of the said earlier application;
(c) if he is not the person who filed the earlier application, a written authorization from the applicant or his successors in title authorizing him to avail himself of the priority in question.

(2) The applicant who, in respect of a single application, seeks to avail himself of two or more rights of priority shall comply with the provisions mentioned above for each of them; he shall also pay a fee for each priority right claimed and shall produce evidence of payment of the fee within the six-month period mentioned above.

(3) Failure to present any one of the documents mentioned above within the time limit shall automatically entail, for the application under consideration, loss of the benefit of the priority right claimed.

(4) Any document that reaches the Organization more than six months after the filing of the application for registration shall be declared inadmissible.

**Article 14 Conversion of a Patent Application into an Application for Registration of a Utility Model and Vice Versa**

(1) (a) At any time prior to the grant of a patent or the rejection of his patent application, a patent applicant may, after payment of the prescribed fee, convert his application into an application for registration of a utility model, which shall be accorded the filing date of the original application.
(b) At any time prior to the grant of a certificate of registration of a utility model or the rejection of his application, the applicant for registration of a utility model may, after payment of the prescribed fee, convert his application into a patent application, which shall be accorded the filing date of the original application.

(2) (a) Where a patent application has been converted under
paragraph (1)(a) above into an application for registration of a utility model, it shall be deemed to have been withdrawn and the Organization shall enter a “withdrawn” notice in the Register of Patents.

(b) Where an application for registration of a utility model has been converted under paragraph (1)(b) above into a patent application, it shall be deemed to have been withdrawn and the Organization shall enter a “withdrawn” notice in the Register of Utility Models.

(3) An application may not be converted more than once under paragraph (1).

Article 15 Unacceptability Due to Non-Payment
No application for registration of a utility model shall be acceptable if it is not accompanied by a document attesting payment of the application and publication fees to the Organization.

Article 16 Filing Date
The Organization shall grant as the filing date the date of receipt of the application, written in one of its working languages, by the Ministry responsible for industrial property, or where appropriate by the Organization, provided that, at the time of receipt, the application contains
(a) an express or implicit indication that the grant of a certificate of registration of a utility model is requested;
(b) information whereby the identity of the applicant may be established;
(c) a part which, at first sight, purports to be the description of an invention and one or more claims;
(d) proof of payment of the prescribed fees.
Section II Grant of Certificates of Registration for Utility Models

Article 17 Transmittal of the Application for a Certificate of Registration of the Utility Model

(1) Immediately after recording the application and within five working days of the filing date, the Ministry responsible for industrial property shall transmit the package sent by the applicant to the Organization, attaching a copy of the application, a certified copy of the record of filing, the document attesting payment of the fees and, where applicable, the power of attorney mentioned in Article 11 and the priority documents specified in Article 13 of this Annex.

(2) The Organization shall proceed to open and record applications and grant the relevant certificates of registration in the order of receipt of the said applications.

Article 18 Examination of Applications

(1) Any application for a certificate of registration of a utility model shall undergo examination to ensure that
(a) the creation in respect of which a certificate of registration is applied for is not excluded from utility model protection under the provisions of Article 4 of this Annex;
(b) the claim or claims conform to the provisions of Article 11(d)(iv) of this Annex;
(c) the provisions of Article 12 of this Annex have been respected.

(2) A search shall also be conducted to ensure that
(a) at the time of the filing of the application for a certificate of registration, an application for a certificate of registration filed earlier, or benefiting from a validly claimed earlier priority and concerning the same invention, was not in the process of being granted;
(b) the invention
   (i) is new,
   (ii) is industrially applicable.

(3) The Administrative Council shall decide whether, and to what extent, the provisions of paragraph (2)(a) and (b) above shall be applied; in particular, it may decide whether all or some of the said provisions are applicable to one or several fields of
technology covered by the inventions; it shall determine such fields by reference to the International Patent Classification.

(4) For international applications under the Patent Cooperation Treaty, the Organization may avail itself of the provisions of Articles 20 and 36 of the said Treaty, which relate to the international search report and the international preliminary examination report, respectively.

Article 19 Grant
(1) Where the Organization finds that all the conditions for the grant of a certificate of registration have been met and that a report has been drawn up under Article 18(2) above, it shall grant the certificate of registration of the utility model applied for. In all cases, however, the grant of certificates of registration of utility models shall be at the applicant’s own risk and without any guarantee either as to the reality, novelty or merits of the invention or as to the truth or accuracy of the description.

(2) The grant of the certificate of registration of the utility model shall take place on a decision by the Director General of the Organization or on a decision by a staff member of the Organization duly authorized to that end by the said Director General.

(3) Certificates of registration based on international applications under the Patent Cooperation Treaty shall be granted in the same manner provided for in paragraph (2) above, but with reference to the international publication provided for in the said Treaty.

Article 20 Conditions Governing Rejection
(1) An application that does not fulfill the provisions of Article 12 above may, within a period of six months from the date of notification that the application cannot be accepted as filed because it does not have one principal subject, be divided into a number of applications benefiting from the date of the initial application.

(2) Any application for which the requirements of Article 11, except for its subparagraph (b), and those of Article 12 have not been fulfilled is defective. The defect shall be notified to the applicant or his agent, who shall be invited to correct the
documents within a period of three months from the date of the notification. That period may be extended by 30 days, in cases of justifiable need, at the request of the applicant or his agent. The application so corrected within the said period shall retain the date of the initial application.

(3) In the event of the corrected documents not being provided within the prescribed period, the application for registration of the utility model shall be rejected.

(4) No application may be rejected under paragraph (3) above without the applicant or his agent having first been given the opportunity to correct the said application to the extent and according to the procedure prescribed.
Section III Improvement Certificates

Article 21 Right to an Improvement Certificate
(1) The creator of a utility model or the persons entitled to a certificate of registration of a utility model shall, for the entire duration of the utility model, have the right to make changes, improvements or additions to the creation, complying, for the filing of the application, with the formalities laid down in Articles 11 and 13 of this Annex.

(2) Such changes, improvements or additions shall be recorded in certificates granted in the same form as the main certificate of registration which, as from the dates of application and grant respectively, shall have the same effects as the said main certificate of registration.

(3) Improvement certificates taken out by one of the entitled persons shall benefit all the others.

Article 22 Duration of the Improvement Certificate
Improvement certificates shall terminate with the main certificate of registration. However, invalidation of the main certificate of registration shall not invalidate as of right the corresponding improvement certificate or certificates and, even where absolute invalidity has been declared under the provisions of Article 34, the improvement certificate or certificates may survive the main certificate of registration until the normal term of the latter expires, subject to continued payment of the annual fees that would have been payable had the certificate of registration not been invalidated.

Article 23 Conversion of an Application for an Improvement Certificate into an Application for a Certificate of Registration of a Utility Model
Provided that an improvement certificate has not been granted, the applicant may effect the conversion of his application for an improvement certificate into an application for a certificate of registration of a utility model, the date of which shall be that of the original application.
Article 24 Formalities for Conversion of an Application for an Improvement Certificate into an Application for a Certificate of Registration of a Utility Model
Any creator who wishes to obtain a main certificate of registration of a utility model for a change, improvement or addition rather than an improvement certificate expiring with the earlier certificate of registration shall comply with the formalities laid down in Articles 11 and 13.

Article 25 Independence of the Right to Exploit Certificates of Registration of Utility Models Relating to the Same Subject Matter
Any person who has obtained a certificate of registration of a utility model for a creation related to the subject matter of another utility model shall have no right to exploit the creation already protected and, conversely, the owner of an earlier certificate of registration may not exploit the creation that is the subject of the new certificate of registration of a utility model.
TITLE III PUBLICATION

Article 26 Communication of Descriptions, Drawings and Photographs
(1) The descriptions, drawings and photographs of registered utility models shall be kept by the Organization which, after the publication provided for in Article 27 below, shall communicate them on request.

(2) After the publication referred to in paragraph (1) above, any person may obtain an official copy of the said descriptions, drawings and photographs.

(3) The provisions of paragraphs (1) and (2) above shall apply to official copies furnished by applicants seeking to avail themselves of the priority of an earlier filing and to the documents authorizing certain such applicants to claim that priority.

(4) The applicant for registration wishing to avail himself abroad of the priority of his filing before registration of the utility model may obtain an official copy of his application.

Article 27 Publication of Certificates of Registration of Utility Models
(1) The Organization shall publish the following details for each utility model granted:
(i) the number of the certificate of registration;
(ii) the name and address of the owner of the certificate of registration of the utility model;
(iii) the name and address of the creator of the utility model, unless he has requested not to be mentioned in the certificate of registration;
(iv) the name and address of the agent, if any;
(v) the filing date of the application;
(vi) a mention of the priority if priority has been validly claimed;
(vii) the date of the priority, the country in which or the country or countries for which the earlier application was filed and the number of the earlier application;
(viii) the date of the grant of the certificate of registration;
(ix) the title of the utility model;
(x) the number and publication date of the international application, where applicable.
(2) The Administrative Council shall establish and determine the conditions of publication of the description of the utility model, the drawings if any, the claims and the abstract.
ARTICLE 28 Transfer and Assignment of Rights
(1) The rights subsisting in an application for registration of a utility model or in an application for registration of a registered utility model shall be transferable in whole or in part.

(2) Acts involving transfer of ownership, the licensing of the right of exploitation or the assignment of that right, or a pledge or cancellation of a pledge, in respect of an application for registration of a utility model or a registered utility model shall, on pain of invalidity, be evidenced in writing.

ARTICLE 29 Recording of Acts in the Special Register of Utility Models
(1) The acts referred to in Article 28(2) above shall not be binding on third parties unless they are entered in the Special Register of Utility Models kept by the Organization. A record of such acts shall be kept by the Organization.

(2) Subject to the conditions established by regulation, the Organization shall furnish to any person who so requests a copy of the entries in the Special Register of Utility Models, and also a record of the entries concerning utility models that are the subject of a pledge, or a certificate attesting the absence of any such entries.

ARTICLE 30 Exploitation as of Right of the Utility Model and Improvements to It
(1) Those persons who have obtained from the owner of a certificate of registration of a utility model or from entitled persons the right to exploit the utility model shall benefit as of right from improvements made by the owner of the utility model or by the entitled persons to the said model. Conversely, the said owner or entitled persons shall benefit from improvements subsequently made to the utility model by those persons having obtained the right to exploit the said model.

(2) Any person entitled to benefit from the said improvements may provide the Organization with a copy of the relevant contract.
Article 31 License Contract

(1) The owner of a certificate of registration of a utility model may, by contract, grant to a person, whether natural person or legal entity, a license enabling him to exploit the registered utility model.

(2) The duration of the license may not be longer than that of the utility model registration.

(3) The license contract shall be drawn up in writing and signed by the parties.

(4) The license contract shall be entered in the Special Register of Utility Models. It shall not be binding on third parties until it is entered in the said Register and published in the form specified in the Implementing Regulations relating to this Annex.

(5) The license shall be cancelled from the Register at the request of the owner of the certificate of registration of the utility model or the licensee on presentation of proof of the expiry or termination of the license contract.

(6) In the absence of provisions to the contrary in the license contract, the grant of a license shall not preclude the licensor from either granting licenses to other persons, subject to notifying the licensee, or exploiting the registered utility model himself.

(7) The grant of an exclusive license shall preclude the licensor from granting licenses to other persons and, in the absence of provisions to the contrary in the license contract, from exploiting the registered utility model himself.

Article 32 Invalid Clauses

(1) Clauses in license contracts or relating to such contracts shall be invalid in so far as they impose on the licensee, in the industrial or commercial sphere, restrictions not deriving from the rights conferred by the certificate of registration of the utility model or not necessary for the upholding of such rights.

(2) The following shall not be considered restrictions within the meaning of paragraph (1) above:
(a) limitations relating to the extent, the scope or the duration of exploitation of the certificate of registration of the registered utility model;
(b) the obligation on the licensee to abstain from any act liable to harm the validity of the registered utility model.

(3) In the absence of provisions to the contrary in the license contract, the license shall not be assignable to third parties and the licensee shall not be authorized to grant sublicenses.

**Article 33 Recognition of Invalid Clauses**

Recognition of the invalid clauses referred to in Article 32 above shall be done by the civil court at the request of any interested party.
TITLE V INVALIDITY, FORFEITURE AND ACTIONS RELATING THERETO

Section I Invalidity and Forfeiture

Article 34 Invalidity
(1) Utility models registered in the following cases shall be declared invalid:
(a) if, under the provisions of Articles 2 and 3 of this Annex, the utility model is not new and not industrially applicable;
(b) if the utility model cannot be registered under Article 4 above, without prejudice to the penalties that might be incurred for the manufacture or marketing of prohibited articles;
(c) if the specification attached to the utility model does not conform to the provisions of Article 11(d)(i) above, or if it does not state in a complete and honest manner the true methods of the applicant.

(2) Improvements that are not connected with the utility model, as provided for in this Annex, shall likewise be declared invalid.

(3) Invalidity may relate to all or only some of the claims.

Article 35 Forfeiture
(1) The owner of the certificate of registration of the utility model who has not paid his annual fees on the anniversary date of the filing of his application shall forfeit all his rights.

(2) The person concerned shall however be allowed a six-month period of grace within which he may still validly pay the annual fees. In that case, he shall also pay an additional fee.

(3) Payments made to complement annual or additional fees during the six-month period mentioned above shall be considered valid.

(4) Payments made as annual or additional fees payable for an application for registration of a utility model resulting from conversion into an application for a certificate of registration of a utility model under Article 14 shall also be considered valid provided that the payments are made within a period of six months from the date of the application for conversion.
Article 36 Restoration

(1) Without prejudice to the provisions of Articles 34 and 35 above, where the protection conferred by a registered utility model has not been maintained owing to circumstances beyond the control of the owner of the said utility model, the owner or entitled persons may apply for its restoration against payment of the requisite annual fee and of a surcharge the amount of which shall be fixed by regulation, within a period of six months from the date on which the said circumstances ceased to exist, and at the latest within a period of one year from the date on which renewal was due.

(2) The application for restoration of the above-mentioned utility model, together with documents proving payment of the fee and surcharge mentioned in the foregoing paragraph, shall be sent to the Organization and shall contain a statement of the grounds on which the owner or the entitled persons consider the restoration justified.

(3) The Organization shall examine the grounds referred to above and shall either restore the utility model or reject the application if it does not consider the grounds valid.

(4) Restoration shall not entail prolongation of the maximum duration of the utility model. Third parties who started to work the utility model after its term expired shall have the right to continue such working.

(5) Restoration of the utility model shall likewise cause any improvement certificates related to it to be restored.

(6) An appeal from the rejection decision following the application for restoration shall lie to the High Commission of Appeal within a period of 30 working days following receipt of notice thereof.

(7) Restored utility models shall be published by the Organization in the form prescribed by the Implementing Regulations relating to this Annex.

(8) Paragraphs (1) to (6) shall be applicable where the application for registration of the utility model has not been filed within the time limits set by international treaties.
Article 37 Appropriation
Any person who, by means of signs, notices, prospectuses, posters, marks or stamps, assumes the status of owner of a utility model without holding a certificate of registration of the utility model granted in accordance with this Agreement and the Implementing Regulations under it shall be punished with a fine of 1,000,000 to 3,000,000 CFA francs, without prejudice to the right to compensation. In the event of recidivism, the fine shall be doubled.
Section II Actions Seeking Invalidity or Forfeiture

Article 38 Initiation of the Action
(1) Actions seeking invalidity or forfeiture may be brought by any person having an interest therein.

(2) In any action seeking the invalidity or forfeiture of a utility model, the Office of the Public Prosecutor may be an intervening party and make submissions seeking a declaration of absolute invalidity or forfeiture of the utility model.

(3) It may even enter directly a principal suit seeking a declaration of invalidity in the cases provided for in Article 34(1)(b).

(4) In the cases provided for in the foregoing paragraph, all holders of rights in the certificate of registration of the utility model whose acts have been entered in the Special Register of Utility Models of the Organization under Article 29 above shall be party to the proceedings.

Article 39 Competent Jurisdiction
(1) The actions referred to in Article 38 above and all disputes relating to the ownership of utility models shall be brought before the civil courts.

(2) If the action is simultaneously brought against the owner of the certificate of registration of the utility model and one or more limited licensees of the said model, it shall be brought before the court sitting in the established or elected domicile of the said owner.

(3) The matter shall be examined and judged in the manner prescribed for summary proceedings; if necessary it shall be communicated to the Office of the Public Prosecutor.

Article 40 Recording of the Judicial Decision on Invalidity or Forfeiture
Where the absolute invalidity or forfeiture of the utility model has been pronounced by a court decision that has become res judicata, the competent court shall inform the Organization thereof, and the
invali
dity or forfeiture pronounced on the territory of a member State shall be entered in the Special Register of Utility Models and published in the form specified in Article 27 above for granted utility models.
TITLE VI INFRINGEMENT, LEGAL PROCEEDINGS AND PENALTIES

**Article 41 Infringement**

Any violation of the rights of the owner of a registered utility model by manufacture of products, by the use of means forming the subject matter of his utility model, by the receiving or sale or display for sale or by the introduction into the national territory of one of the member States of one or more objects shall constitute the offense of infringement. That offense shall be punished with a fine of 1,000,000 to 6,000,000 CFA francs, without prejudice to the right to compensation.

**Article 42 Recidivism and Aggravating Circumstances**

(1) In the event of recidivism, imprisonment for a term of one to six months may be imposed in addition to the fine specified in Article 41.

(2) Recidivism shall be deemed to have occurred when, within the preceding two years, the defendant has received a first conviction for one of the offenses provided for in this Annex.

(3) Imprisonment for a term of 15 days to 3 months may also be imposed if the infringer is a worker or employee who has worked in the workshops or establishment of the owner of the utility model, or if the infringer, having joined a worker or employee of the owner of the utility model, has become acquainted through him with the processes described in the registration of the utility model.

(4) In the latter case, the worker or employee may be prosecuted as an accomplice.

**Article 43 Extenuating Circumstances**

The provisions of the national legislation of member States on extenuating circumstances shall apply to the offenses provided for in this Annex.

**Article 44 Condition for Initiation of Criminal Proceedings**

Criminal action seeking the imposition of the above penalties may only be brought by the Office of the Public Prosecutor on a complaint by the injured party.
Article 45 Exceptional Competence of the Criminal Court
The criminal court, when dealing with an action for infringement, shall rule on the arguments put forward by the accused in his defense, such as the alleged invalidity or forfeiture of the utility model or questions relating to ownership of the said utility model.

Article 46 Acts Prior to Registration
Acts occurring prior to the registration of a utility model shall not be considered prejudicial to the rights of the owner of the utility model and may not be invoked to justify conviction, even under civil law, with the exception however of acts subsequent to the communication to the alleged infringer of an official copy of the description of the invention attached to the application for registration of the utility model.

Article 47 Infringement Seizure
(1) Owners of certificates of registration of utility models or holders of exclusive exploitation rights may, acting in pursuance of an order from the president of the civil court within whose jurisdiction the action is to be taken, engage bailiffs or public or ministerial officials, including customs officials, if necessary with the aid of an expert, to make a detailed inventory and description, with or without seizure, of the allegedly infringing objects.

(2) The order shall be made on request and on presentation of the certificate of registration of the utility model and the provision of proof of non-lapse.

(3) Where seizure is involved, the said order may require the complainant to furnish security, which he shall be required to provide before seizure is effected. The security shall be sufficient but not such as would discourage recourse to the procedure.

(4) Security shall always be required of foreigners seeking seizure.

(5) The person in possession of the objects described or seized shall be given a copy of the order and, where appropriate, of the document attesting the deposit of security, on pain of invalidity and damages against the bailiff or the public or ministerial official or the customs official, as the case may be.
Article 48 Time Limit for Initiating Substantive Proceedings
Should the complainant fail to take action under either civil or criminal law within a period of ten working days from the seizure or inventory, the said seizure or inventory shall become void as of right, without prejudice to any damages that may be claimed.

Article 49 Other Sanctions
(1) The confiscation of recognized infringing objects and, where necessary, that of implements or tools specially intended for their manufacture shall, even in the case of acquittal, be ordered against the infringer, the receiver, the introducer or the retailer.

(2) The objects confiscated may be handed over to the owner of the utility model, without prejudice to the right to further damages and publication of the judgment, where appropriate.
TITLE VII TRANSITIONAL AND FINAL PROVISIONS

Article 50 Acquired Rights
(1) This Annex shall apply to utility model applications filed as from the date of its entry into force, subject to the rights acquired under Annex II of the Bangui Agreement of March 2, 1977.

(2) Utility model applications filed prior to the date of entry into force of this Annex shall remain subject to the provisions that were applicable on the filing date of the said applications.

(3) However, the exercise of the rights deriving from utility model registrations granted under the provisions referred to in paragraph (2) above shall be subject to the provisions of this Annex as from the date of its entry into force, subject to acquired rights, which shall be maintained.

(4) Annex II of the Bangui Agreement of March 2, 1977, is repealed.
ANNEX III TRADE MARKS AND SERVICE MARKS

TITLE I GENERAL PROVISIONS

Article 1 Optional Character of the Mark
Trademarks or service marks shall be optional. However, member States may exceptionally declare them compulsory for the goods or services that they shall specify.

Article 2 Signs Recognized as Marks
(1) Any visible sign used or intended to be used and capable of distinguishing the goods or services of any enterprise shall be considered a trademark or service mark, including in particular surnames by themselves or in a distinctive form, special, arbitrary or fanciful designations, the characteristic form of a product or its packaging, labels, wrappers, emblems, prints, stamps, seals, vignettes, borders, combinations or arrangements of colors, drawings, reliefs, letters, numbers, devices and pseudonyms.

(2) The trademarks or service marks shall be considered collective marks where the conditions for their use are laid down in rules approved by the competent authority and where they may be used only by enterprises of public character, unions or groups of unions, associations, groups of producers, manufacturers, craftsmen or tradesmen, provided that the latter are officially recognized and have legal personality.

Article 3 Marks Not Eligible for Registration
A mark may not be validly registered if
(a) it is devoid of distinctiveness, notably owing to the fact that it consists of signs or matter constituting the necessary or genetic designation of the product or the composition thereof;
(b) it is identical to a mark that belongs to another owner and is already registered, or the filing or priority date of which is earlier, and which relates to the same or similar goods or services, or where it so resembles such a mark that it is liable to mislead or confuse;
(c) it is contrary to public policy, morality or the law;
(d) it is liable to mislead the public or business circles, notably as to the geographical origin, nature or characteristics of the goods or services in question;
it reproduces, imitates or incorporates armorial bearings, flags or other emblems, the abbreviated name or acronym or an official sign or hallmark indicating control and warranty of a State or intergovernmental organization established by an international convention, except where the competent authority of that State or of that organization has given its permission.

**Article 4 Acquisition of Rights by Foreigners**

Foreigners shall enjoy the benefits of this Annex if they fulfill the conditions imposed by it.

**Article 5 Right to the Mark**

(1) Subject to the provisions set forth below, ownership of a mark shall vest in the person who files it first.

(2) No person may claim exclusive ownership of a mark by performing the acts specified in the provisions of this Annex unless he has filed it for registration in accordance with the conditions prescribed in Article 8 below.

(3) Where a mark has been filed by a person who at the time of filing knew, or should have known that another person had a prior right to use the said mark, the latter may file a claim of ownership of the mark with the Organization, provided that he does so within six months following the publication of the record of the first filing.

(4) The Organization shall rule on the priority claim after an inter partes proceeding provided for in the Regulations.

(5) The use of a mark may only be proved by written or printed matter or documents contemporaneous with the facts that they seek to establish.

**Article 6 Well-Known Marks**

The owner of a well-known mark within the meaning of Article 6bis of the Paris Convention for the Protection of Industrial Property and Article 16, paragraphs (2) and (3), of the Agreement on Trade Related Aspects of Intellectual Property Rights may apply to the court for the invalidation, on the national territory of one of the member States, of the effects of the filing of a mark liable to be
confused with his own. Such action may not be taken after a period of five years has expired following the date of the application in so far as the latter was filed in good faith.

**Article 7 Rights Conferred by Registration**

(1) Registration of a mark confers on its owner the exclusive right to use the mark, or a sign resembling it, in connection with the goods or services for which it has been registered and similar goods or services.

(2) Registration of the mark likewise confers on the owner the exclusive right to prevent all third parties from making use in business without his consent, of identical or similar signs for goods or services that are themselves similar to those for which the trademark or service mark has been registered where such use is liable to cause confusion. Where an identical sign is used for identical goods and services, a risk of confusion shall be presumed to exist.

(3) Registration of the mark does not confer on its owner the right to prohibit a third party from making use in good faith of his name or address, a pseudonym, a geographical name or accurate information concerning the nature, quality, quantity, purpose, value, place of origin or time of production of his goods or rendering of his services in so far as the use in question is limited to the purpose of mere identification or information and cannot mislead the public as to the source of the goods or services.

(4) Registration of a mark does not confer on its owner the right to prohibit a third party from making use of the mark in relation to goods that have been lawfully sold under the mark on the national territory of the member State in which the right of prohibition is exercised, on condition that the goods have not undergone any alteration.
TITLE II FILING, REGISTRATION AND PUBLICATION

Article 8 Filing of the Application
Any person wishing to obtain the registration of a mark shall file with the Organization or with the Ministry responsible for industrial property, or send it by registered mail with a request for acknowledgement of receipt
(a) his application, addressed to the Director General of the Organization in a sufficient number of copies;
(b) a document proving payment to the Organization of the filing fee;
(c) an unstamped private power of attorney if the applicant is represented by an agent;
(d) a reproduction of the mark, including a list of the goods or services to which the mark applies, with the corresponding classes of the International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Agreement); the number of reproductions of the mark to be supplied shall be laid down in the Implementing Regulations relating to this Annex;
(e) the rules referred to in Article 2(2) in the case of a collective mark.

Article 9 Scope of Registration
The mark may be registered for one or more classes of goods or for one or more classes of services within the meaning of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks.

Article 10 Statement of Filing and Transmittal of Documents
(1) A statement drawn up by the Organization or by the Ministry responsible for industrial property shall note each filing and specify the date and time of submission of the documents.

(2) A copy of the statement shall be issued to the applicant.

(3) The Ministry responsible for industrial property shall transmit the documents to the Organization within a period of five working days from the filing date.

Article 11 Claim of Priority
(1) Any person wishing to avail himself of the priority of an
earlier application shall be required to attach to his application for registration or to send to the Organization at the latest three months following the filing date of his application
(a) a written declaration stating the date and number of the earlier application, the country in which it was filed and the name of the applicant;
(b) a certified true copy of the said earlier application.

(2) The applicant who, in respect of a single application, seeks to avail himself of two or more rights of priority shall comply with the provisions mentioned above for each of them; he shall also pay a fee for each priority right claimed and shall produce evidence of payment of the fee within the three-month period mentioned in paragraph (1) above.

(3) Any priority claim that reaches the Organization more than three months after the filing of the application shall be declared inadmissible.

**Article 12 Unacceptability Due to Non-Payment**
No filing shall be acceptable if the application is not accompanied by a document proving payment of the application fee.

**Article 13 Conditions of Acceptability and Filing Date**
The Organization shall grant as the filing date the date of receipt of the application for registration, made on the prescribed form, by the Ministry responsible for industrial property or by the Organization, provided that, at the time of receipt, the application contains
(a) the requisite information concerning the name and address, nationality and domicile of the applicant;
(b) signature; in the case of a legal entity, the identity and title of the signatory shall be specified;
(c) the goods and services to which the mark concerned applies;
(d) information concerning payment of the application fee;
(e) where an agent has been appointed, that fact and the agent’s name and address.

**Article 14 Registration of the Mark**
(1) For every application for registration of a mark, the Organization shall examine whether the conditions of form referred
to in Articles 8 and 9 of this Annex have been met, and whether the prescribed fees have been paid.

(2) Any filing that does not conform to the provisions of Article 3(c) and (e) shall be rejected.

(3) Any application, in respect of which the conditions of form referred to in Article 8, with the exception of paragraph (1)(b), and in Article 11 have not been observed, is irregular. The irregularity shall be notified to the applicant or to his agent, who shall be invited to put the documents in order within a period of three months following the date of notification. That period may be extended by 30 days in a case of proven necessity at the request of the applicant or his agent. An application thus put in order within the said period shall retain the date of the original application.

(4) Where rectified documents are not produced within the period allowed, the application for registration of the mark shall be rejected.

(5) Rejection shall be pronounced by the Director General of the Organization.

(6) No application may be rejected under paragraphs (2), (4) and (5) of this Article without the opportunity having been given to the applicant or his agent to rectify it to the extent and according to the procedures and forms prescribed.

(7) Where the Organization finds that the conditions referred to in paragraph (1) above have been met, it shall register the mark and publish the registration.

(8) The legal date of the registration shall be that of the application.

Article 15 Appeal Against Rejection of the Application
If an application is rejected by the organization, the applicant has sixty days in which to appeal against the decision. In this case, the said Commission shall be the judge and arbiter of final instance of the application in question.
Article 16 Issue of the Certificate of Registration

(1) When registration has taken place, a certificate shall be issued to the owner of the registration setting out the following information, in particular, as recorded in the Register:

(a) the serial number of the mark;
(b) the filing date of the application for registration, the date of registration and the priority date if priority is claimed;
(c) the trade name or surname and forename of the owner of the mark, together with his address;
(d) a reproduction of the mark;
(e) a mention of the classes of goods and services to which the registration relates.

Article 17 Publication

The Organization shall publish the particulars referred to in Article 16 above for every certificate of registration issued. Those particulars shall be entered in the Special Register of Marks.

Article 18 Opposition

(1) Any interested party may oppose the registration of a mark by sending to the Organization, within a period of six months from the publication mentioned in Article 17 above, a written statement setting out the reasons for his opposition, which reasons must be based on an infringement either of the provisions of Article 2 or 3 of this Annex, or of a prior right belonging to the opposing party.

(2) The Organization shall send a copy of the statement of opposition to the applicant or to his agent, who may reply, setting out his reasons, within a once-renewable period of three months. The reply shall be forwarded to the opponent or to his representative. If his reply does not reach the Organization by the prescribed time limit, the applicant shall be deemed to have withdrawn his application for registration and the registration shall be cancelled.

(3) Before taking a decision on the opposition, the Organization shall, on request, hear each or either of the parties or their agents.

(4) An appeal from the Organization’s decision on the opposition shall lie to the High Commission of Appeal within a period of three months from the date of receipt of notice of the decision by the
interested parties.

(5) The Organization shall only cancel the registration in so far as the aforementioned opposition is valid.

(6) The final decision on cancellation shall be published in the official Bulletin of the Organization.

**Article 19 Duration of Rights**
The registration of a mark shall be valid for only ten years from the filing date of the application for registration; however, the ownership of a mark may be preserved indefinitely through successive renewals of the registration, which may be effected every ten years.

**Article 20 Access to Information in the Special Register**
Any person may, at any time, against payment of the prescribed fee, consult the Organization’s Special Register of Marks or request, at his own expense, information, extracts or copies of such information. The consultation, information, extracts or copies referred to above may relate to one mark only.

**Article 21 Renewal of the Registration of the Mark**
(1) The owner of a mark may only effect the renewal referred to in Article 19 above if he has paid the amount of fees prescribed by regulation.

(2) The amount of the fees provided for in paragraph (1) above shall be paid during the last year of the ten-year period referred to in Article 19 of this Annex; however, a six-month period of grace shall be allowed for payment of the said fee after the end of that year, subject to payment also of a surcharge fixed by regulation.

(3) No changes may be made either to the mark or to the list of goods or services for which the said mark was registered, subject to the right of the registered owner to limit the list.

(4) Renewal of the registration of a mark shall not entail renewed examination of the mark.

(5) The Organization shall enter the renewal in the Special Register of Marks and publish it in the manner specified in this Annex,
mentioning, where appropriate, any limitation of the goods or services.

(6) A mark whose registration has not been renewed may not be registered for the benefit of a third party in respect of identical or similar goods or services until three years have elapsed since the term of the registration or renewal expired.
TITLE III RENUNCIATION, CANCELLATION AND INVALIDITY

Article 22 Renunciation
(1) The registered owner of a mark may renounce the registration either wholly or in respect of part of the goods or services for which the mark is registered.

(2) Renunciation shall be notified by registered letter with acknowledgement of receipt to the Organization, which shall enter it in the Special Register of Marks and shall publish it.

(3) If a license has been recorded in the Special Register of Marks, renunciation shall be entered only on submission of a declaration by which the licensee consents to the renunciation, except where the said licensee has expressly waived that right in the license contract.

Article 23 Cancellation
(1) At the request of any interested party, the court may order the cancellation of any registered mark which, for an uninterrupted period of five years prior to the request, has not been used on the national territory of one of the member States, except where the registered owner has legitimate reasons for having failed to use it; the cancellation may be extended to all or part of the goods or services for which the said mark was registered.

(2) The burden of proof regarding use of the mark shall rest with the owner. Use of a mark by another person shall be recognized as use of the mark, subject to endorsement by the owner.

(3) When the decision ordering cancellation becomes final, it shall be notified to the Organization, which shall record it in the Special Register of Marks.

(4) Cancellation shall be published in the form laid down in the Implementing Regulations relating to this Annex. Registration of the mark shall then be deemed never to have had any effect.

Article 24 Invalidity
(1) The invalidation of the effects on the national territory of the registration of a mark shall be pronounced by the civil courts, at
the request either of the Office of the Public Prosecutor or of any interested person or professional group.

(2) At the request of the interested parties referred to above or of the Organization, the court shall declare the registration of a mark invalid if it does not conform to the provisions of Articles 2 and 3 of this Annex or conflicts with a prior right; in the latter case, invalidation may only be pronounced at the request of the owner of the prior right. The invalidity may apply either to all or to only some of the goods or services for which the mark was registered.

(3) When the decision declaring the registration invalid becomes final, it shall be notified to the Organization.

(4) Invalidity shall be published in the form laid down in the Implementing Regulations relating to this Annex. The registration shall be deemed invalid as of the date on which it took place.

Article 25 Restoration

(1) Without prejudice to the provisions of Article 24 above, where the protection conferred by a registered mark has not been renewed owing to circumstances beyond the control of the owner of the mark, the owner or entitled persons may apply for its restoration, against payment of the requisite renewal fee and of a surcharge the amount of which shall be fixed by regulation, within a period of six months from the date on which the said circumstances ceased to exist, and at the latest within a period of two years from the date on which renewal was due.

(2) The application for restoration of the above-mentioned mark, together with documents proving payment of the fee and surcharge mentioned in paragraph (1) above, shall be sent to the Organization and shall contain a statement of the grounds on which the owner or the entitled persons consider the restoration justified.

(3) The Organization shall examine the grounds referred to above and shall either restore the mark or reject the application if it does not consider the grounds valid.

(4) Restoration shall not entail prolongation of the maximum duration of the mark. Third parties who started to use the mark
after the registration thereof expired shall have the right to continue such use.

(5) Restored marks shall be published by the Organization in the form prescribed by the Implementing Regulations relating to this Annex.

(6) An appeal from the rejection decision following the application for restoration shall lie to the High Commission of Appeal within a period of 30 days following notification of the said decision.

(7) Paragraphs (1) to (6) shall be applicable where the application for registration of the mark has not been filed within the time limits set by international treaties.
TITLE IV TRANSFER AND ASSIGNMENT OF MARKS AND CONTRACTUAL LICENSES

Article 26 Transfer of Rights
(1) The rights subsisting in a mark shall be transferable in whole or in part.

(2) Acts involving transfer of ownership, the licensing of the right of exploitation or the assignment of that right, or a pledge or cancellation of a pledge, in respect of a mark shall, on pain of invalidity, be evidenced in writing.

(3) The transfer of ownership or the licensing of the right of exploitation may relate to all or only some of the goods or services to which the mark applies. Only the licensing of the right of exploitation may have its validity limited to the national territory of one of the member States.

Article 27 Enforceability Against Third Parties
(1) The acts referred to in Article 26 above shall not be enforceable against third parties unless they are recorded in the Special Register of Marks kept by the Organization.

(2) Subject to the conditions established by regulation, the Organization shall furnish to any person who so requests a copy of the entries in the Special Register of Marks or a record of the entries concerning marks that are the subject of a pledge, or a certificate attesting the absence of any such entries, and also identity certificates reproducing the information on the original specimen of the mark.

Article 28 Recording of the Judicial Decision on Invalidity
Any final decision declaring the effects of the filing of a mark invalid on the national territory of one of the member States shall be entered in the Special Register of Marks on notification by the judicial body concerned, and a mention thereof shall be published by the Organization.

Article 29 License Contract
(1) The owner of a mark may, by contract, grant to a person, whether natural person or legal entity, a license enabling him to use the said mark for all or some of the goods or services in respect of
which the mark is registered.

(2) The duration of the license may not be longer than that of the registration of the mark.

(3) The license contract shall be drawn up in writing and signed by the parties on pain of invalidity.

(4) The license contract shall be entered in the Special Register of Marks of the Organization. It shall not be enforceable against third parties until it is entered in the said Register and published in the form specified in the Implementing Regulations relating to this Annex.

(5) The license shall be cancelled from the Register at the request of the owner of the mark or the licensee on presentation of proof of the expiry or termination of the license contract.

(6) In the absence of provisions to the contrary in the license contract, the grant of a license shall not preclude the licensor from either granting licenses to other persons, subject to notifying the licensee, or from using the mark himself.

(7) The grant of an exclusive license shall preclude the licensor from granting licenses to other persons and, in the absence of provisions to the contrary in the license contract, from using the mark himself.

**Article 30 Invalid Clauses**

(1) Clauses in license contracts or relating to such contracts shall be invalid in so far as they impose on the licensee, in the industrial or commercial sphere, restrictions not deriving from the rights conferred by the registration of the mark or not necessary for the upholding of such rights.

(2) The following shall not be considered restrictions within the meaning of paragraph (1) above:

(a) limitations relating to the extent, the scope or the duration of use of the mark, or to the quality or quantity of the goods or services for which the mark may be used;

(b) the obligation on the licensee to abstain from any act liable to
harm the validity of the registration of the mark.

(3) In the absence of provisions to the contrary in the license contract, the license shall not be assignable to third parties and the licensee shall not be authorized to grant sublicenses.

**Article 31 Recognition of Invalid Clauses**

The recognition of the invalid clauses referred to in Article 30 above shall be done by the civil court at the request of any interested party.
TITLE V COLLECTIVE MARKS

Article 32 Right to the Collective Mark
In the general interest and in order to facilitate the development of commerce, industry, crafts and agriculture, the State, public companies, unions or groups of unions and associations or groups of producers, manufacturers, craftsmen and tradesmen may, provided that they are officially recognized and have legal status, own collective marks for goods or services.

Article 33 Use of the Collective Mark
Collective marks shall be affixed either directly by the groups mentioned in Article 32 above as a means of control, or by members of the said groups on the goods or objects traded by them; whatever the circumstances, this shall be done under the supervision of the group concerned and in accordance with the provisions of the texts governing the collective marks in question.

Article 34 Registration of a Collective Mark
The filing application for registration of a collective mark shall include the approved rules for its use. If those rules are contrary to the provisions of Article 3 or if the prescribed fees have not been paid, the application shall be rejected. Any amendments to the said rules that are contrary to public policy or morality shall likewise be rejected.

Article 35 Defense of the Collective Mark
Any member of the group owning the collective mark may institute the civil and criminal proceedings provided for in this Annex, on condition that he proves the failure of the said group to act and calls upon it to act.

Article 36 Transfer, Invalidity and Forfeiture of the Collective Mark
(1) Collective marks shall not be either assigned or transferred.

(2) Nevertheless, in the event of a legal merger, the Minister responsible for industrial property may authorize its transfer to the new group created by the merger.

(3) The court may declare a collective mark invalid or forfeit if
(a) the owner of the mark, as defined in Article 32, has ceased to exist;
(b) the rules governing its use are contrary to public policy or morality;
(c) the mark does not fulfill the conditions set forth in the provisions of this Title;
(d) the owner of the mark referred to in subparagraph (a) above has knowingly used the collective mark, or allowed it to be used, under conditions other than those provided for in the rules referred to in subparagraph (b) above.

(4) Where the collective mark has been declared invalid or forfeit, it may not be appropriated for the same goods or services by virtue of a new registration or used for any purpose at all. However, on the expiration of a period of ten years from the date of the final decision declaring the mark invalid or forfeit, the said mark may be registered as such by a group as defined in Article 32, provided that the latter has the same nationality as the previous owner.
TITLE VI PENALTIES

Article 37 Penalties for Unlawful Exploitation of a Registered Mark
(1) The following persons shall be punished by a fine of 1,000,000 to 6,000,000 CFA francs and with imprisonment for a term of three months to two years:
(a) those who fraudulently affix on their goods or on objects traded by them a mark belonging to another;
(b) those who knowingly sell or offer for sale one or more goods bearing a counterfeit or fraudulently affixed mark, or those who knowingly sell, offer for sale, provide or offer to provide goods or services under such a mark;
(c) those who make a fraudulent imitation of a mark in such a way as to mislead the buyer or who make use of a fraudulently imitated mark;
(d) those who knowingly sell or offer for sale one or more goods bearing a fraudulently imitated mark or information liable to mislead the buyer as to the nature of the goods, or those who provide or offer to provide goods or services under such a mark.

(2) The following persons shall also be punished with the penalties referred to in paragraph (1) above:
(a) those who knowingly provide a product or render a service other than that requested of them under a registered mark;
(b) those who make use of a mark bearing information liable to mislead the buyer as to the nature of the goods.

Article 38 Penalties in Connection with Compulsory Marks and Prohibited Signs
The following persons shall be punished with a fine of 1,000,000 to 2,000,000 CFA francs and with imprisonment for a term of 15 days to six months, or to only one of those penalties:
(a) those who do not affix to their goods a mark that has been declared compulsory;
(b) those who sell or offer for sale goods that do not bear a mark declared compulsory for that type of goods;
(c) those who violate the terms of decisions taken under Article 1 of this Annex;
(d) those who incorporate in their marks signs that are prohibited under the provisions of this Annex.
Article 39 Penalties Not Cumulative
(1) The penalties specified in Articles 37 and 38 of this Annex shall not be cumulative.

(2) The severest penalty alone shall be imposed for all acts prior to the first act proceeded against.

Article 40 Penalties in the Event of Recidivism
(1) In the event of recidivism, the penalties specified in Articles 37 and 38 shall be doubled.
(2) Recidivism shall be deemed to have occurred when, within the preceding five years, the offender has been found guilty of one of the offenses specified in this Annex.

Article 41 Extenuating Circumstances
The provisions of the national legislation of member States on extenuating circumstances shall apply to the offenses provided for in this Annex.

Article 42 Deprivation of Electoral Rights
(1) Offenders may, in addition, be deprived of the right to participate in elections to professional groups such as chambers of commerce and industry and chambers of agriculture for a period not exceeding ten years.

(2) The court may order the display of the judgment in places that it shall specify and also its publication in full or in the form of extracts in the newspapers that it shall designate, all at the expense of the offender.

Article 43 Fate of Counterfeited Marks and Goods
(1) The court may order the confiscation of goods bearing a mark recognized as being contrary to the provisions of Article 37, even in the case of acquittal, and also that of the implements or tools that served specifically for the commission of the offense.

(2) The court may order that the objects confiscated be surrendered to the owner of the mark that has been counterfeited or fraudulently affixed or imitated, regardless of the right to any further damages, that may be appropriate.
(3) In all cases the court may order the destruction of goods bearing marks recognized as being contrary to the provisions of Article 37 above.

**Article 44 Other Measures Relating to Compulsory Marks**

(1) In the cases provided for in Article 38 the court shall always order that the marks declared compulsory be affixed to the goods affected by its ruling.

(2) The court may order the confiscation of goods if the accused has been found guilty of one of the offenses provided for in Article 38 during the preceding five years.

**Article 45 Penalties in Connection with Collective Marks**

The penalties provided for in Articles 37, 38, 40, 42, 43 and 44 of this Annex shall apply to collective marks for goods or services. In addition, the following persons shall be punished with the penalties provided for in Article 37 above:

(a) those who knowingly make any use of a collective mark under conditions other than those specified in the rules of use referred to in Article 34;

(b) those who sell or offer for sale goods bearing a collective mark unlawfully used under the terms of the provisions governing marks for goods or services;

(c) those who knowingly make any use at all of a mark reproducing or imitating a collective mark within a period of ten years following the date of invalidation of the said collective mark;

(d) those who, within a period of ten years from the date of invalidation of a collective mark, knowingly sell, offer for sale, provide or offer to provide goods or services under a mark reproducing or imitating the said collective mark.

**Article 46 Right to Bring Infringement Action**

(1) Civil action for the infringement of a mark shall be brought by the owner thereof. However, the beneficiary of an exclusive right of use may bring an infringement action, unless otherwise provided in the contract, if the owner fails to act after having been called upon to do so.

(2) Any party to a license contract shall be entitled to intervene in infringement proceedings brought by another party in order to
secure compensation for prejudice specific to him.

(3) Any action for infringement of a subsequently registered mark whose use has been tolerated for three years shall be inadmissible except where it has been filed for registration in bad faith. However, the inadmissibility of the action shall be confined to those goods and services for which the use was tolerated.
TITLE VII JURISDICTION

Article 47 Competent Jurisdiction
(1) Civil actions relating to marks shall be brought before the civil courts and judged as summary proceedings.

(2) If the accused in an action brought before a criminal court raises questions in his defense concerning the ownership of the mark, the competent court shall pass judgment thereon.

Article 48 Infringement Seizure
(1) The owner of a mark or holder of an exclusive right of exploitation may, acting in pursuance of an order from the president of the civil court within whose jurisdiction the action is to be taken, including at the border, engage bailiffs or public or ministerial officials, including customs officials, if necessary with the aid of an expert, to make a detailed inventory, with or without seizure, of the goods or services that he claims have been marked, provided or furnished to his prejudice in breach of the provisions of this Annex.

(2) The order shall be made on request, subject to proof that the mark is registered and that it has neither lapsed nor been cancelled.

(3) Where seizure is applied for, the judge may require the complainant to furnish security, which he shall be required to provide before seizure is effected. Security shall always be required of foreigners seeking seizure.

(4) The persons in possession of the objects described or seized shall be given a copy of the order and, where appropriate, of the document attesting the deposit of security, on pain of invalidity and damages against the bailiff or the public or ministerial official or the customs official, as the case may be.

Article 49 Time Limit for Initiating Substantive Proceedings
Should the complainant fail to take action under either civil or criminal law within a period of ten working days, the inventory or seizure shall become void as of right, without prejudice to any damages that may be claimed.
TITLE VIII TRANSITIONAL AND FINAL PROVISIONS

Article 50 Continued Validity of Marks
Registered or Recognized Under the Bangui Agreement of March 2, 1977
Under this Article, any mark registered or recognized under the Bangui Agreement of March 2, 1977, and its Annex III shall remain in force for the term specified in that Agreement.

Article 51 Acquired Rights
(1) This Annex shall apply to marks filed for registration as from the date of its entry into force, subject to the rights acquired under Annex III of the Bangui Agreement of March 2, 1977.

(2) Applications for the registration of marks filed prior to the date of entry into force of this Annex shall remain subject to the provisions that were applicable on the filing date of the said applications.

(3) However, the exercise of the rights deriving from marks registered under the provisions referred to in paragraph (2) above shall be subject to the provisions of this Annex as from the date of its entry into force, subject to acquired rights, which shall be maintained.

(4) Annex III of the Bangui Agreement of March 2, 1977, is repealed.
ANNEX IV INDUSTRIAL DESIGNS

TITLE I GENERAL PROVISIONS

Article 1 Definition
(1) For the purposes of this Annex, any arrangement of lines or colors shall be considered a design, and any three-dimensional shape, whether or not associated with lines or colors, shall be considered a model, provided that the said arrangement or shape gives a special appearance to an industrial or craft product and may serve as a pattern for the manufacture of such a product.

(2) If the object can at the same time be considered a new design and a patentable invention and if the elements constituting the novelty of the design are inseparable from those of the invention, the said object may only be protected under the provisions of Annex I on Patents or Annex II on Utility Models.

(3) The protection accorded by this Annex shall not exclude any rights deriving from other legislative provisions of member States, in particular those concerning literary and artistic property.

Article 2 Industrial Designs Eligible for Registration
(1) An industrial design may be registered if it is new.

(2) An industrial design is new if it has not been disclosed anywhere in the world by publication in tangible form, by use or by any other means before the filing date or, where applicable, before the priority date of the application for registration.

(3) The novelty referred to in paragraph (1) above shall not be denied if, during the 12 months preceding the date specified in the said paragraph, the industrial design was the subject of disclosure resulting from
   (a) an obvious violation in relation to the applicant or his predecessor in title; or
   (b) the fact that the applicant or his predecessor in title has displayed it at an official or officially recognized international exhibition.

(4) Industrial designs the exploitation of which is contrary to
public policy or morality may not be registered, on the understanding that the commercial exploitation of the said designs is not considered contrary to public policy or morality merely on account of its being prohibited by a legal or regulatory provision.

**Article 3 Rights Conferred by Registration**

Any creator of an industrial design and his successors in title shall have the exclusive right to exploit the said design and to sell or cause to be sold for industrial or commercial purposes the goods in which the design is incorporated, subject to the conditions of this Annex, without prejudice to the rights conferred by other legal provisions.

**Article 4 Right to the Industrial Design**

(1) Only designs deposited in the proper manner shall enjoy the benefits of this Annex.

(2) The ownership of a design shall vest in the person who created it or in his successors in title, but in the absence of proof to the contrary the first applicant shall be presumed to be the creator of the design.

**Article 5 Acquisition of Rights by Foreigners**

Foreigners shall enjoy the benefits of this Annex if they fulfill the conditions thereof.

**Article 6 Designs Created by Employees**

(1) Subject to the legal provisions governing contracts for performing a certain work and employment contracts, and in the absence of contractual provisions to the contrary, the right to the registration of an industrial design made under such a contract shall belong to the person who commissioned the work or to the employer.

(2) The same provision shall apply when an employment contract does not require the employee to exercise any creative activity, but where the employee has created the industrial design using data or means available to him on account of his employment.

(3) In the circumstances provided for in paragraph (2) above, the employee who has created the industrial design shall have a right to
remuneration reflecting the importance of the design created, which remuneration shall be fixed by the court in the absence of agreement between the parties.

(4) The provisions of this Article shall likewise be applicable to employees of the State, public associations and any other corporate entity under public law in the absence of specific provisions to the contrary.

(5) Where the employer expressly renounces his right to the design, that right shall belong to the creator.

(6) The provisions of paragraph (3) are a matter of public policy.

**Article 7 Limitation of the Rights Conferred**
The registered industrial design shall not be binding on third parties who, at the time of filing of the application for registration, were already exploiting the said design on the territory of one of the member States or had taken the necessary steps with a view to exploiting it. The said third party shall be authorized to use the industrial design in his business or his own workshops or in those of other persons. That right may only be transferred with the business.
TITLE II DEPOSIT AND PUBLICITY

Article 8 Filing of the Application
(1) Any person wishing to have an industrial design registered shall file with the Organization or with the Ministry responsible for industrial property, or send it by registered mail with a request for acknowledgement of receipt
(a) his application, addressed to the Director General of the Organization, in the number of copies prescribed by regulation;
(b) a document proving payment of the prescribed fees to the Organization;
(c) an unstamped private power of attorney if the applicant is represented by an agent;
(d) a mention of the type of product for which the design is to be used;
(e) on pain of invalidity of the application, a sealed package containing two identical copies of a graphic or photographic representation of the design, in dimensions specified by regulation.

(2) The same filing may include from one to 100 designs, which shall be numbered from first to last, provided that they belong to the same class of the International Classification (Locarno Agreement) or to the same set or range of articles. Designs additional to the hundredth shall not be considered validly deposited under this Annex.

(3) At the time of filing, the application may contain a request for publication of the design, once registered, to be delayed for a period not exceeding 12 months following the filing date of the application, or following the priority date thereof where priority is claimed.

Article 9 Claim of Priority
(1) Any person wishing to avail himself of the priority of an earlier application shall be required to attach to his application or to send to the Organization, at the latest three months following the filing date of his application,
(a) a written declaration stating the date and number of the earlier application, the country in which it was filed and the name of the applicant;
(b) a certified true copy of the said earlier application.
(2) The applicant who seeks to avail himself of two or more rights of priority shall comply with the provisions mentioned above for each of them; he shall also pay a fee for each priority right claimed and shall produce evidence of payment of the fee within the three-month period mentioned in paragraph (1) above.

(3) Any priority claim that reaches the Organization more than three months after the filing of the application shall be declared inadmissible.

Article 10 Statement of Filing and Transmittal of Documents
(1) A statement drawn up by the Organization or by the Ministry responsible for industrial property shall note each filing and specify the date and time of submission of the documents.

(2) A copy of the statement shall be issued to the applicant.

(3) The Ministry responsible for industrial property shall transmit the documents to the Organization within a period of five working days from the filing date.

Article 11 Registration of the Design
(1) For every application for registration of an industrial design, the Organization shall examine whether the conditions of form referred to in Articles 8 and 9 of this Annex have been met, and whether the prescribed fees have been paid.

(2) Any application in respect of which the conditions of form referred to in Article 8, with the exception of paragraph (1)(b), and in Article 9(1) have not been observed is irregular. The irregularity shall be notified to the applicant or to his agent, who shall be invited to put the documents in order within a period of three months following the date of notification. That period may be extended by 30 days in a case of proven necessity at the request of the applicant or his agent. An application thus put in order within the said period shall retain the date of the original application.

(3) Where rectified documents are not produced within the period allowed, the application for registration of the design shall be rejected.
(4) Rejection shall be pronounced by the Director General.

(5) No application may be rejected under paragraphs (3) and (4) of this Article without the opportunity having been given to the applicant or his agent to rectify it to the extent and according to the procedures and forms prescribed.

(6) Where the Organization finds that the conditions referred to in paragraph (1) above have been met, it shall register the design and publish the registration.

(7) The legal date of the registration shall be that of the application.

**Article 12 Term of Protection**

(1) Subject to the provisions of paragraph (2) below, the term of the protection conferred by a certificate of registration of an industrial design shall expire at the end of the fifth year following the filing date of the application for registration.

(2) The registration of a design may be renewed for a further two consecutive periods of five years on payment of a renewal fee the amount of which shall be fixed by regulation.

(3) The renewal fee for an industrial design shall be paid within the twelve months preceding the expiration of the current period of registration. However, a six-month period of grace shall be allowed for payment of the fee after such expiration, subject to payment of a surcharge fixed by regulation.

**Article 13 Restoration**

(1) Where the protection conferred by an industrial design has not been renewed owing to circumstances beyond the control of the owner thereof, the owner or entitled persons may apply for its restoration, against payment of the requisite renewal fee and of a surcharge the amount of which shall be fixed by regulation, within a period of six months from the date on which the said circumstances ceased to exist, and at the latest within a period of one year from the date on which renewal was due.

(2) The application for restoration of the above-mentioned
industrial design, together with documents proving payment of the fee and surcharge mentioned in paragraph (1) above, shall be sent to the Organization and shall contain a statement of the grounds on which the owner or the entitled persons consider the restoration justified.

(3) The Organization shall examine the grounds referred to above and shall either restore the design or reject the application if it does not consider the grounds valid.

(4) Restoration shall not entail prolongation of the maximum duration of the industrial design. Third parties who started to exploit the design after the registration thereof expired shall have the right to continue such exploitation.

(5) Restored designs shall be published by the Organization in the form prescribed by the Implementing Regulations relating to this Annex.

(6) An appeal from the rejection decision following the application for restoration shall lie to the High Commission of Appeal within a period of 30 days following notification of the said decision.

(7) Paragraphs (1) to (6) shall be applicable where the application for registration of the design has not been filed within the time limits set by international treaties.

Article 14 Communication of Application Documents

(1) The descriptions, drawings and photographs of registered industrial designs shall be kept by the Organization which, after the publication provided for in Article 15 below, shall communicate them on request. Specimens of industrial designs shall be kept by the Organization for a period of eight years and may be examined by any interested person.

(2) After the publication referred to in paragraph (1) above, any person may obtain an official copy of the said descriptions, drawings and photographs.

(3) The provisions of paragraphs (1) and (2) above shall apply to official copies furnished by applicants seeking to avail themselves
of the priority of an earlier filing and to the documents authorizing certain such applicants to claim that priority.

(4) The applicant for registration wishing to avail himself abroad of the priority of his filing before registration of the industrial design may obtain an official copy of his application.

**Article 15 Publication**

(1) Where the Organization finds that the conditions referred to in Article 11 have been met, it shall publish the following details for each industrial design registered:

(a) the number of the design;
(b) the name and address of the owner of the design;
(c) the name and address of the creator of the design, unless he has requested not to be mentioned on the certificate of registration;
(d) the name and address of the agent, if any;
(e) the filing date of the application;
(f) a mention of the priority if priority has been validly claimed;
(g) the date of the priority, the country in which or the country or countries for which the earlier application was filed and the number of the earlier application;
(h) the registration date of the design;
(i) the title of the design.

(2) The Administrative Council shall establish and determine the conditions of publication of the description of the design and any photographs or drawings.

**Article 16 Publicity**

(1) The Organization shall cause the designs filed for registration to be reproduced.

(2) A copy of the reproduction shall be made available to the public at the Organization.

(3) Copies mentioning the publication of the application shall be given to the applicant or his successors in title, and also to any party engaged in a legal dispute concerning the design.

**Article 17 Duration of Preservation**

Where designs have not been claimed by their owners within two years following the expiration of the period of protection, they shall be
Article 18 Application Fees
The application shall be subject to payment in advance of
(a) an application fee, regardless of the number of designs filed
for registration;
(b) a fee for each design so filed.

Article 19 Unacceptability Due to Non-Payment
No filing shall be acceptable if the application is not accompanied
by a document attesting payment to the Organization of the fees
referred to in the foregoing Article.
TITLE III TRANSFER AND ASSIGNMENT OF INDUSTRIAL DESIGNS

Article 20 Transfer of Rights
(1) The rights subsisting in an industrial design shall be transferable in whole or in part.

(2) Acts involving transfer of ownership, the licensing of the right of exploitation or the assignment of that right, or a pledge or cancellation of a pledge, in respect of a design shall, on pain of invalidity, be evidenced in writing.

Article 21 Recording of Acts in the Special Register
(1) The acts mentioned in Article 20 above shall not be binding on third parties unless they are entered in the Special Register of Designs kept by the Organization. A record of such acts shall be kept by the Organization.

(2) The Organization shall furnish to any person who so requests a copy of the entries in the Special Register of Designs, and also a record of the entries concerning industrial designs that are the subject of a pledge, or a certificate attesting the absence of any such entries.

Article 22 Exercise of the Rights of Joint Owners
In the absence of any provision to the contrary between the parties, joint owners of a registered design may separately transfer their shares, use the design and exercise the exclusive rights conferred by Article 3 of this Annex, but may only jointly license a third party to exploit the design.
TITLE IV LICENSE CONTRACTS

Article 23 License Contract
(1) The owner of an industrial design may, by contract, license any person, whether natural person or legal entity, to exploit the said design.

(2) The duration of the license may not be longer than that of the registration of the design.

(3) The license contract shall be evidenced in writing and signed by the contracting parties on pain of invalidity.

(4) The license contract shall be entered in the Special Register of Designs kept by the Organization, on payment of a fee fixed by regulation; the license shall not be enforceable against third parties until so entered.

(5) The entry concerning a license shall be removed at the request of the owner of the design or the licensee when evidence is given of the expiration of the license.

Article 24 Invalid Clauses
(1) Clauses in license contracts or relating to such contracts shall be invalid in so far as they impose on the licensee, in the industrial or commercial sphere, restrictions not deriving from the rights conferred by the registration of the industrial design or not necessary for the upholding of such rights.

(2) Recognition of the invalid clauses referred to in paragraph (1) above shall be done by the civil court at the request of any interested party.
TITLE V PENALTIES

Article 25 Penalties for Infringement of Rights
Any knowingly committed violation of the rights guaranteed by this Annex shall be liable to punishment with a fine of 1,000,000 to 6,000,000 CFA francs.

Article 26 Penalties in the Event of Recidivism
(1) In the event of recidivism, or if the offender was employed by the injured party, imprisonment for a term of one to six months shall be imposed in addition to the fine under Article 25.

(2) Recidivism shall be deemed to have occurred when, within the preceding five years, the offender has already received a first conviction for one of the offenses specified in this Annex.

(3) The provisions of the national legislation of member States on extenuating circumstances shall apply to the offenses provided for in this Annex.

Article 27 Deprivation of Electoral Rights
(1) Offenders may, in addition to receiving the penalties provided for in Articles 25 and 26 above, be deprived of the right to participate in elections to professional groups such as chambers of commerce and industry and chambers of trade for a period not exceeding ten years.

(2) The court may order the display of the judgment and its publication in full or in the form of extracts in the newspapers that it shall designate, all at the expense of the offender.

Article 28 Confiscation
(1) Confiscation in favor of the injured party of objects infringing the rights guaranteed by this Annex shall be ordered by the court even in the case of acquittal.

(2) The court may also, in the case of conviction, order confiscation of the implements that served specially for the making of the offending objects.
TITLE VI LEGAL ACTIONS AND PROCEDURE

Article 29 Competent Jurisdiction
(1) Civil actions relating to industrial designs shall be brought before the civil courts and judged as summary proceedings.

(2) If the accused in an action brought before a criminal court raises questions in his defense concerning the ownership of the designs, the competent court shall pass judgment thereon.

Article 30 Condition for Initiation of Criminal Proceedings
Criminal action seeking imposition of the penalties provided for in Title V may only be brought by the Office of the Public Prosecutor on a complaint by the injured party.

Article 31 Infringement Seizure
(1) The injured party may, acting in pursuance of an order from the president of the civil court within whose jurisdiction the action is to be taken, including at the border, engage bailiffs or public or ministerial officials, including customs officials, if necessary with the aid of an expert, to make a detailed inventory, with or without seizure, of the offending objects or instruments.

(2) The order shall be made on request and on presentation of an affidavit of publication issued by the Organization, subject to proof that registration has not lapsed or been cancelled.

(3) Where seizure is applied for, the judge may require the complainant to furnish security, which he shall be required to provide before seizure is effected.

Security shall always be required of foreigners seeking seizure.

(4) The persons in possession of the objects described shall be given a copy of the order and, where appropriate, of the document attesting the deposit of security, on pain of invalidity and damages against the bailiff or the public or ministerial official or the customs official, as the case may be.

Article 32 Time Limit for Instituting Substantive Proceedings
Should the complainant fail to take action under either civil or criminal law within a period of ten working days, the inventory or
seizure shall become void as of right, without prejudice to any damages that may be claimed.

**Article 33 Communication of Documents to Judicial Bodies**
Any judicial body to which a lawsuit has been referred may request the Organization to communicate an industrial design that has been filed for registration or registered.

**Article 34 Defense of Rights Granted**
(1) Any beneficiary of a contractual or compulsory license may, by registered letter, call upon the owner of a registered industrial design to bring the necessary legal action seeking civil or criminal sanctions for any violation of the rights under the industrial design registration that is reported by the said beneficiary.

(2) If, within three months following the summons provided for in the preceding paragraph, the owner of the registered industrial design refuses or fails to bring the action referred to in the said preceding paragraph, the registered licensee may institute them in his own name, without prejudice to the right of the owner of the registered design to intervene in the action.
TITLE VII TRANSITIONAL AND FINAL PROVISIONS

Article 35 Continued Validity of Industrial Designs Registered or Recognized Under the Bangui Agreement of March 2, 1977
Under this Article, any industrial design registered or recognized under the Bangui Agreement of March 2, 1977, and its Annex IV shall remain in force for the term specified in that Agreement.

Article 36 Acquired Rights
(1) This Annex shall apply to applications for the registration of industrial designs filed as from the date of its entry into force, subject to the rights acquired under Annex IV of the Bangui Agreement of March 2, 1977.

(2) Applications for the registration of industrial designs filed prior to the date of entry into force of this Annex shall remain subject to the provisions that were applicable on the filing date of the said applications.

(3) However, the exercise of the rights deriving from industrial design registrations granted under the provisions referred to in paragraph (2) above shall be subject to the provisions of this Annex as from the date of its entry into force, subject to acquired rights, which shall be maintained.

(4) Annex IV of the Bangui Agreement of March 2, 1977, is repealed.
ANNEX V TRADE NAMES

Article 1 Definition
Within the meaning of this Annex, a trade name shall be the name under which a trade, industrial, craft or agricultural establishment is known and exploited.

Article 2 Name or Designation Not Admissible as a Trade Name
A name or designation shall not be admissible as a trade name if, by reason of its nature or the use to which it may be put, it is contrary to morality or public policy and if, in particular, it is liable to mislead trade circles or the public as to the nature of the trade, industrial, craft or agricultural establishment of that name.

Article 3 Right to the Trade Name
(1) Subject to the provisions hereafter, a trade name shall belong to the person having first made use of it or having first registered it.

(2) The use of a trade name may only be proved by written or printed matter or documents contemporaneous with the facts they seek to establish.

(3) Where a registered trade name has been publicly used in a continuous manner on the national territory for at least five years without having given rise to a legal action recognized as being well-founded, ownership of the trade name may not be challenged on the ground of priority of use, unless it can be proved that, at the time of the filing of the application for registration, the applicant could not have been unaware of the existence of the trade name of the initial user.

Article 4 Specific Effects of Registration of a Trade Name
Only trade names registered in accordance with the provisions of this Annex may be the subject of the penal sanctions specified in Article 16(3) and (4), hereafter.

Article 5 Conditions for Using Trade Names
(1) It shall be illegal to use on the national territory of one of the member States a trade name registered for the same trade,
industrial, craft or agricultural activity as that of the owner of the registered trade name if such utilization is liable to create confusion between the enterprises in question.

(2) Nevertheless, the registered owner of a trade name may not preclude third parties from the use in good faith of their names, their addresses, a pseudonym, a geographical name, or exact indications concerning the kind, quality, quantity, destination, value, place of origin or time of production of their goods or of the supply of their services, in so far as such use is confined to the purposes of mere identification or information and cannot mislead the public as to the source of the goods or services.

(3) An interested party whose name and first name are similar to those of a registered trade name, where his rights to the trade name of his establishment are subsequent to those of the registered trade name, shall take all necessary measures, by an addition to his trade name or in any other manner, to distinguish his trade name from that of the registered trade name.

(4) The provisions of paragraphs (1) to (3), above, shall be applicable to any trade, industrial, craft or agricultural activity ensuing from the establishment in question, in so far as it has been registered.

Article 6 Filing of the Application

The owner of a trade, industrial, craft or agricultural enterprise situated on the national territory of one of the member States wishing to register the trade name of his establishment shall file with the Organization, with the clerk of the civil court of his domicile or with the Ministry responsible for industrial property, or send by registered mail with a request for acknowledgement of receipt,

(a) an application for registration, in a sufficient number of copies, addressed to the Director General of the Organization and containing

(i) the surname, forenames, address and nationality of the applicant,
(ii) the trade name for which registration is requested and, where appropriate, reproductions of the trade name in a sufficient number of copies,
(iii) the location and type of activity of the establishment in
question;
(b) a document proving payment to the Organization of the filing and publication fees;
(c) an unstamped private power of attorney if the applicant is represented by an agent.

**Article 7 Statement of Filing**
(1) A statement drawn up by the Organization or by the clerk of the court or by the Ministry responsible for industrial property shall note each filing and specify the date and time of submission of the documents.

(2) A copy of the statement shall be issued to the applicant.

(3) Immediately after recording the application and within five working days of the date of its filing, the clerk or the Ministry responsible for industrial property shall transmit the cover referred to in Article 6(a) to the Organization, attaching a copy of the application, a certified copy of the statement of filing, the proof of payment of the fees and, where appropriate, the power of attorney mentioned in Article 6.

(4) The Organization shall proceed with the opening and the recording of applications in the order of their receipt.

**Article 8 Registration of the Application**
(1) For every application for registration of a trade name, the Organization shall register and publish the trade name, after having ascertained that it is not contrary to the provisions of Article 2, that it has been correctly filed and that the prescribed fees have been paid.

(2) The registration shall have effect as from the date of filing.

(3) The Organization shall send a copy of the specimen of the trade name, bearing a notice of the registration, to the applicant.

(4) Any filing that does not conform to the provisions of Article 2 shall be rejected.

(5) Any application in respect of which the conditions of form
referred to in Article 6, with the exception of letter (b), have not been observed is irregular. The irregularity shall be notified to the applicant or to his agent, who shall be invited to put the documents in order within a period of three months following the date of notification. That period may be extended by 30 days in a case of proven necessity at the request of the applicant or his agent. An application thus put in order within the said period shall retain the date of the original application.

(6) Where rectified documents are not produced within the period allowed, the application for registration of the trade name shall be rejected.

(7) Rejection shall be pronounced by the Director General and notified to the applicant.

(8) No application may be rejected under paragraphs (4), (6) and (7) of this Article without the opportunity having been given to the applicant or his agent to rectify it to the extent and according to the procedures and forms prescribed.

(9) Within 30 days from the date of notification of the rejection, the applicant may appeal to the High Commission of Appeal; the Commission shall be the judge and arbiter of final instance of the application in question.

**Article 9 Opposition**

(1) Any interested party may oppose the registration of a trade name by sending to the Organization, within a period of six months from the publication mentioned in Article 8(1) above, a written statement setting out the reasons for his opposition, which reasons must be based on an infringement either of the provisions of Articles 1, 2 and 5(1), or of a prior right belonging to the opposing party.

(2) The Organization shall send a copy of the statement of opposition to the applicant, who may reply, setting out his reasons, within a period of three months, renewable once only at the reasoned request of the interested party. If his reply does not reach the Organization by the prescribed time limit, the applicant shall be deemed to have withdrawn his application for registration and the registration shall be cancelled.
(3) Before taking a decision on the opposition, the Organization shall, on request, hear each or either of the parties or their agents.

(4) An appeal from the Organization’s decision on canceling the opposition shall lie to the High Commission of Appeal within a period of 3 months from the date of receipt of notice of the decision by the interested parties.

(5) The registration shall only be cancelled in so far as the aforementioned opposition is valid.

Article 10 Certificates of Registration
On registration, a certificate shall be issued to the owner of the registration setting out, in particular, the following information as recorded in the Special Register of Trade Names:
(a) the serial number of the trade name;
(b) the date of filing of the application for registration and the date of registration;
(c) the trade name as registered or, where appropriate, the reproduction of the trade name;
(d) the place where the establishment in question is situated, together with the type of activity in which it engages;
(e) the surname and forename of the registered owner, together with his address.

Article 11 Duration of Rights
(1) The registration of a trade name shall be valid for only 10 years from the date of filing; however, the right afforded by registration of a trade name may be preserved indefinitely through successive renewals of the registration every 10 years.

(2) Renewal of a registration may be obtained on request by the owner of the registration submitted during the final year of the ten-year period and on payment of a renewal fee the amount of which shall be fixed by regulation.

(3) However, the owner of the registration shall enjoy a six-month period of grace as from the expiry referred to in paragraph (1) above to enable him to make valid payment of the required fee. In such case, he shall also be required to pay a surcharge laid down by
Article 12 Restoration

(1) Without prejudice to the provisions of Article 11 above, where the protection conferred by a registered trade name has not been renewed owing to circumstances beyond the control of the owner of such trade name, the owner or entitled persons may apply for its restoration against payment of the requisite renewal fee and of a surcharge the amount of which shall be fixed by regulation, within a period of six months from the date on which the said circumstances ceased to exist, and at the latest within a period of two years from the date on which renewal was due.

(2) The application for restoration of the above-mentioned trade name, together with documents proving payment of the fee and surcharge mentioned in the foregoing paragraph, shall be sent to the Organization and shall contain a statement of the grounds on which the owner or the entitled persons consider the restoration justified.

(3) Restoration shall not entail prolongation of the maximum duration of protection for the trade name. Third parties who started to use the trade name after the registration thereof expired shall have the right to continue such use.

(4) Restored trade names shall be published by the Organization in the form prescribed by the Implementing Regulations relating to this Annex.

(5) An appeal from the rejection decision following the application for restoration shall lie to the High Commission of Appeal with a period of 30 days from the date of notification of the said decision.

Article 13 Renunciation

The owner of a registered trade name may at any time renounce the trade name by a written declaration sent to the Organization. The renunciation shall take effect on the date on which it is entered in the Special Register of Trade Names.

Article 14 Invalidity of Trade Names

(1) The invalidation of the effects of the registration of a trade name on the national territory of one of the member States shall be
pronounced by the civil courts, at the request either of the Office of the Public Prosecutor or of any interested natural or legal person.

(2) At the request of the interested parties referred to above or of the Organization, the court shall declare the registration of a trade name invalid if it does not conform to the provisions of Articles 1, 2 and 5(1) above or conflicts with a prior right; in the latter case, invalidity may only be pronounced at the request of the owner of the prior right.

(3) When the decision declaring the registration invalid becomes final, it shall be notified to the Organization, which shall enter it in the Special Register of Trade Names.

(4) Invalidity shall be published in the form laid down in the Implementing Regulations relating to this Annex. The registration shall be deemed invalid as of the date on which it took place.

**Article 15 Transfer of Trade Names**

(1) A trade name may be assigned or transferred only with the trade, industrial, craft or agricultural establishment, or with the part of such establishment designated under the trade name.

(2) The assignment of a trade name shall be done in writing and shall require the signatures of the contracting parties. Transfers by merger of trade, industrial, craft or agricultural establishments or any other form of succession may be made by any other document proving such transfer.

(3) The acts referred to in the first paragraph above shall only be enforceable against third parties if they have been entered in the Special Register of Trade Names kept by the Organization and published in the form laid down by the Implementing Regulations relating to this Annex. A copy of such acts shall be kept by the Organization.

**Article 16 Legal Action and Penalties**

(1) Where the rights attaching to a trade name are threatened with infringement, the registered owner of such rights may initiate any legal action to prevent such infringement.
(2) In the event of infringement of rights referred to in the preceding paragraph, the owner of the rights may prohibit continuation and claim payment of damages, as well as any other sanction provided for in the Civil Code.

(3) Without prejudice to any damages, a person who has affixed or caused to appear, by suppression or by any alteration whatsoever on manufactured articles, the name of a manufacturer or craftsman other than the originator, or the trade name of an establishment other than that where the articles were made, shall be liable to punishment by imprisonment of from three months to one year and by a fine of from 1,000,000 to 6,000,000 CFA francs, or by either of these penalties.

(4) Any person who has knowingly displayed for sale or placed on the market articles marked with fictitious or falsified names shall be liable to the same punishment as that specified in paragraph (3).

Article 17 Scope
The provisions of this Annex shall be applicable to any trade, industrial, craft or agricultural establishment, subject to the special provisions applicable elsewhere to the establishments in question.

Article 18 Continued Validity of Trade Names
Registered or Recognized Under the Bangui Agreement of March 2, 1977
Under this Article, any trade name registered or recognized under the Bangui Agreement of March 2, 1977, and its Annex V shall remain in force for the term specified in that Agreement.

Article 19 Acquired Rights
(1) This Annex shall apply to trade names applications made as from the day of its entry into force, subject to the rights acquired under Annex V of the Bangui Agreement of March 2, 1977.

(2) Applications for the registration of trade names filed prior to the date of entry into force of this Annex shall remain subject to the provisions that were applicable on the filing date of the said applications.

(3) However, the exercise of the rights deriving from trade names
registered under the provisions referred to in paragraph (2) above shall be subject to the provisions of this Annex as from the date of its entry into force, subject to acquired rights, which shall be maintained.

(4) Annex V of the Bangui Agreement of March 2, 1977, is repealed.
ANNEX VI GEOGRAPHICAL INDICATIONS (Omitted)

ANNEX VII LITERARY AND ARTISTIC PROPERTY (Omitted)

ANNEX VIII PROTECTION AGAINST UNFAIR COMPETITION (Omitted)

ANNEX IX LAYOUT-DESIGNS (TOPOGRAPHIES) OF INTEGRATED CIRCUITS (Omitted)

ANNEX X PLANT VARIETY PROTECTION (Omitted)