

Proposal by the Delegations of Canada and the United States of America

Article 13bis & Rule 11bis

December 12, 2012

**Article 13 bis**

**Correction or Addition of Priority Claim; Restoration of Priority Right**

(1) [Correction or Addition of Priority Claim] A Contracting Party shall provide for the correction or addition of a priority claim with respect to an application ("the subsequent application"), if:

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

(ii) the request is filed within the time limit prescribed in the Regulations; and

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

(2) [Delayed Filing of the Subsequent Application] Taking into consideration the Paris Convention, a Contracting Party shall provide that, where an application ("the subsequent application") which claims or could have claimed the priority of an earlier application has a filing date which is later than the date on which the priority period expired, but within the time limit prescribed in the Regulations, the Office shall restore the right of priority, if:

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

(ii) the request is filed within the time limit prescribed in the Regulations;

(iii) the request states the reasons for the failure to comply with the priority period; and

(iv) the Office finds that the failure to file the subsequent application within the priority period occurred in spite of due care required by the circumstances having been taken or, at the option of the Contracting Party, was unintentional.

(3) [Fees] A Contracting Party may require that a fee be paid in respect of a request under paragraphs (1) or (2).

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

(5) [Opportunity to Make Observations in Case of Intended Refusal] A request under paragraphs (1) or (2) may not be refused, totally or in part, without the requesting party being given the opportunity to make observations on the intended refusal within a reasonable time limit.

**Rule 11bis**

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

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

(2) [Time Limit Under Article 13bis (1)(ii)] The time limit referred to in Article 13bis (1)(ii) shall be not less than six months from the priority date or, where the correction or addition would cause a change in the priority date, 6 months from the priority date as so changed, whichever 6 month period expires first, provided that the request may be submitted until the expiration of two months from the filing date.

(3) [Time Limits Under Article 13bis (2)]

(a) The time limits referred to in Article 13bis (2), introductory part, and Article 13bis(2)(ii) shall expire not less than one month from the date on which the priority period expired.

(4) [Requirements Under Article 13bis (2)(i)] A Contracting Party may require that a request referred to in Article 13bis (2)(i):

(i) be signed by the applicant; and

(ii) be accompanied, where the application did not claim the priority of the earlier application, by the priority claim.